

Bed Assignment Associated View

Status	Inmate	Bed	Start Date	End Date
Active	James Roberts	DIV08-3E-6-1	5/26/2016 4:00 PM	
Inactive	James Roberts	DIV08-3E-5-2	5/22/2016 7:30 PM	5/26/2016 4:00 PM
Inactive	James Roberts	DIV08-3A-10-2	4/15/2016 10:20 PM	5/22/2016 7:30 PM
Inactive	James Roberts	DIV08-3A-6-1	4/7/2016 5:30 PM	4/15/2016 10:20 PM
Inactive	James Roberts	DIV08-3A-6-1	12/16/2015 4:30 PM	12/16/2015 4:30 PM
Inactive	James Roberts	DIV08-3E-6-1	12/16/2015 4:30 PM	4/7/2016 5:30 PM
Inactive	James Roberts	DIV08-3A-10-1	8/12/2015 9:30 AM	12/16/2015 4:30 PM
Inactive	James Roberts	DIV08-3E-10-X1	5/13/2015 2:00 PM	8/12/2015 9:30 AM
Inactive	James Roberts	DIV08-3A-10-1	3/29/2015 8:00 AM	5/13/2015 1:00 PM
Inactive	James Roberts	DIV08-4A-10-X1	3/18/2015 5:30 PM	3/29/2015 8:00 AM
Inactive	James Roberts	DIV08-3A-6-1	3/15/2015 12:00 PM	3/18/2015 5:30 PM
Inactive	James Roberts	DIV08-3A-7-1	3/15/2015 5:00 AM	3/15/2015 12:00 PM
Inactive	James Roberts	DIV 15-HP-HOSPITAL-GENERAL	3/14/2015 7:30 PM	3/15/2015 12:00 AM
Inactive	James Roberts	DIV08-3A-7-2	2/12/2015 12:30 PM	3/14/2015 7:00 PM
Inactive	James Roberts	DIV08-3A-1-X1	12/7/2014 5:30 PM	2/12/2015 12:30 PM
Inactive	James Roberts	DIV08-3E-10-2	11/18/2014 11:00 AM	12/7/2014 5:00 PM
Inactive	James Roberts	DIV08-3E-6-1	10/31/2014 10:00 PM	11/18/2014 10:58 AM
Inactive	James Roberts	DIV08-3E-10-2	9/26/2014 12:00 AM	10/31/2014 9:30 PM

Historical Bed Assignment Associated View

Inmate	Booking	Class Date	Bed	Facility
James Roberts	20140910003	9/10/2014	DIV1-	DIV1
James Roberts	20140910003	9/10/2014	DIV15-HP	DIV15
James Roberts	20140910003	9/10/2014	DIV8-3W-DR	DIV8
James Roberts	20140910003	9/24/2014	DIV08-3G-3-D5-X3	DIV08
James Roberts	20140910003	9/25/2014	DIV08-3E-3-2-1	DIV08
James Roberts	20140910003	9/26/2014	DIV08-3E-3-10-2	DIV08

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

UNITED STATES OF AMERICA,)
)
 PLAINTIFF,)
)
 v.)
) Civil No. 10 C 2946
)
 COOK COUNTY, ILLINOIS;)
 THOMAS DART, COOK COUNTY)
 SHERIFF (in his official capacity);)
 TODD H. STROGER, COOK COUNTY)
 BOARD PRESIDENT (in his official capacity);)
 COOK COUNTY BOARD OF)
 COMMISSIONERS (in their official capacity);)
)
 DEFENDANTS.)

AGREED ORDER

I. INTRODUCTION

- On February 16, 2007, the Civil Rights Division of the United States Department of Justice and the United States Attorney's Office for the Northern District of Illinois (collectively, "United States") notified Cook County officials of their intention to investigate conditions of confinement at the Cook County Jail ("the Facility"), pursuant to the Civil Rights of Institutionalized Persons Act, 42 U.S.C. § 1997 ("CRIPA").
- On June 18-22, 2007 and July 23-27, 2007, the United States toured the Facility with consultants in the fields of use of force, corrections, correctional medical care, correctional mental health care, fire safety, and environmental health.
- Throughout the course of the investigation, the United States received complete cooperation and access to all facilities and documents from the Cook County Board of Commissioners and the Cook County Sheriff's Office.

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- On July 11, 2008, the United States issued a findings letter pursuant to 42 U.S.C. § 1997 that concluded that certain conditions at the Facility violate the constitutional rights of individuals confined at the Facility. The findings letter and the conclusions therein are contested by Defendants. Furthermore, by entering into this Agreed Order, Defendants to this action do not waive the right to contest the July 11, 2008 findings letter or any of the conclusions set forth therein.
- Defendants in this action are Cook County, Illinois; the Cook County Sheriff, Thomas Dart (in his official capacity); the Cook County Board President, Todd H. Stroger (in his official capacity); the Cook County Board of Commissioners (in their official capacities); and their successors, contractors, and agents (collectively, "Defendants"). Currently, all corrections and security functions at the Facility are administered by the Cook County Department of Corrections ("CCDOC") under the Cook County Sheriff. Health care services at the Facility are provided by Cermak Health Services of Cook County ("Cermak"), a public entity that is administered by the Cook County Health and Hospitals System Board. Maintenance responsibilities for the Facility's physical plant are handled by the Cook County Department of Facilities Management ("DFM"). Defendants shall ensure that all Cook County agencies will take any actions necessary to comply with the provisions of this Agreed Order.
- The United States District Court for the Northern District of Illinois ("Court") has jurisdiction over this action pursuant to 28 U.S.C. § 1331, 28 U.S.C. § 1345, and 42 U.S.C. § 1997. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b).
- For the purposes of this lawsuit only and in order to settle this matter, Defendants consent to the entry of a finding that the conditions at the Facility necessitate the remedial measures contained in this Agreed Order. As indicated in Section VII of this Agreed Order, the parties consent to a finding that this Agreed Order complies in all respects with the provisions of the Prison Litigation Reform Act, 18 U.S.C. § 3626(a).
- No person or entity is intended to be a third-party beneficiary of the provisions of this Agreed Order for purposes of any civil, criminal, or administrative action, and accordingly, no person or entity may assert any claim or right as a beneficiary or protected class under this Agreed Order. This Agreed Order does not create and shall not be the basis of a cause of action for any non-party. This Agreed Order is not intended to impair or expand the right of any person or organization to seek relief against Defendants or their officials, employees, or agents for their conduct. This Agreed Order does not alter legal standards governing any such claims, including those standards established by Illinois law.

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- The purpose of this Agreed Order is to protect the constitutional rights of the inmates detained at the Facility. The terms and requirements of this Agreed Order will be interpreted to be consistent with the measures necessary to protect the constitutional rights of inmates and are not meant to expand or contract the constitutional rights of inmates at the Facility.

II. DEFINITIONS

- "The Facility" shall refer to the Cook County Jail, located at 2700 South California Avenue, Chicago, Illinois 60608, and shall include Divisions I-VI, VIII-XI, Cermak Health Services Building, the Receiving, Classification, and Diagnostics Center ("RCD"), the Residential Treatment Unit ("RTU"), as well as any building that is built, leased, or otherwise used, to replace or supplement the Facility.
- "DOJ" shall refer to the United States Department of Justice, which represents the United States in this matter.
- "Effective date" shall mean the date the Agreed Order is signed and entered by the Court.
- "Exigent circumstances" shall mean unexpected events or unforeseen occurrences giving rise to an emergency situation that can, in the short term, be remedied only by departing from what would otherwise be required by this Agreed Order. The overpopulation of the Facility with inmates as the result of a continuing and steady rise in inmate population over time is not an "unexpected event" or "unforeseen occurrence" within the meaning of this definition.
- "Hot-bunk," addressed in provision 32.I(iii), means the practice of assigning more than one inmate at the Facility to a single bed, so that the two (or more) inmates assigned to that bed must sleep on the bed in shifts.
- "Include" or "including" shall mean "include, but not be limited to" or "including, but not limited to."
- "Inmate" or "inmates" shall be construed broadly to refer to one or more individuals detained at, or otherwise housed, held, or confined at the Facility.
- "Infirmary" shall mean the areas located on the second and third floors of the Cermak Building at the Facility, or any successor facility designed to replace these areas.
- Consistent with, or in accordance with, the term "generally accepted correctional

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- standards" shall mean those industry standards accepted by a majority of correctional professionals or organizations in the relevant subject area.
- "Licensed Correctional Medical Technician" means an individual licensed as Emergency Medical Technician by the Illinois Department of Public Health.
- "Qualified Medical Professional" shall mean a licensed physician, licensed physician assistant, or a licensed nurse practitioner, who is currently licensed by the State of Illinois to deliver those health care services he or she has undertaken to provide.
- "Qualified Medical Staff" shall refer to Qualified Medical Professionals and Qualified Nursing Staff.
- "Qualified Mental Health Professional" shall refer to an individual with a minimum of masters-level education and training in psychiatry, psychology, counseling, social work or psychiatric nursing, who is currently licensed by the State of Illinois to deliver those mental health services he or she has undertaken to provide.
- "Qualified Mental Health Staff" shall refer to individuals with a minimum of a bachelor's degree and two years of experience providing mental health services.
- "Qualified Nursing Staff" means registered nurses and licensed practical nurses currently licensed by the State of Illinois to deliver those health services they have undertaken to provide.
- "Serious suicide attempt" means a suicide attempt that is considered to be either potentially life-threatening or that required medical treatment for serious harm.
- "Special Management Units" means those housing units of the Facility designated for inmates in administrative or disciplinary segregation, in protective custody, on suicide precautions, or with mental illness.
- "Suicide Precautions" means any level of watch, observation, or measures to prevent self-harm.
- "Train" means to instruct in the skills addressed to a level that the trainee has the demonstrated proficiency to implement those skills as, and when called for, in the training. "Trained" means to have achieved such proficiency.
- "Use of force," means the application of physical, chemical, or mechanical measures on

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an inmate. "Use of force" shall not include unresisted handcuffing or unresisted shackling of inmates for movement purposes.

30. Throughout this Agreed Order, the following terms are used when discussing compliance: substantial compliance, partial compliance, and non-compliance: "Substantial Compliance" indicates that the relevant Defendant(s) has achieved compliance with most or all components of the relevant provision of the Agreed Order. "Partial Compliance" indicates that compliance has been achieved on some of the components of the relevant provision of the Agreed Order, but significant work remains. "Non-compliance" indicates that most or all of the components of the Agreed Order provision have not yet been met.

III. SUBSTANTIVE PROVISIONS

Defendants shall take any actions necessary to comply with the substantive provisions of the Agreed Order listed below. The primary responsibility of each substantive provision is assigned to CCDOC, Cermak, or the DFM, respectively. The Parties recognize that there are a number of ways to achieve constitutional minima. In determining compliance with the substantive provisions of this Agreed Order, consideration shall be given to the operational requirements of the Facility and the policies and practices employed by CCDOC, Cermak, and DFM.

A. PROTECTION FROM HARM

31. Use of Force by Staff

- a. CCDOC shall maintain comprehensive and contemporary policies and procedures, in accordance with generally accepted correctional standards, surrounding the use of force and with particular emphasis regarding permissible and impermissible uses of force.
- b. CCDOC shall maintain use of force policies and pre-service and in-service training programs for correctional officers and supervisors that address the following impermissible uses of force:
 - (1) use of force as a response to verbal insults or inmate threats where there is no immediate threat to the safety of the institution, inmates, or staff;
 - (2) use of force as a response to inmates' failure to follow instructions where there is no immediate threat to the safety of the institution, inmates, or

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- staff, unless CCDOC has attempted a hierarchy of nonphysical alternatives that are documented;
- (3) use of force as punishment or retaliation;
- (4) use of force involving striking, hitting, or punching a restrained and non-combatative inmate;
- (5) use of force against an inmate after the inmate has ceased to offer resistance and is under control;
- (6) use of choke holds on an inmate, unless lethal force is justified; and
- (7) use of inappropriate or excessive force.
- c. CCDOC shall maintain a policy to ensure that staff adequately and promptly report all uses of force, in accordance with generally accepted correctional standards.
- d. CCDOC shall require that use of force reports:
 - (1) be written in specific terms in order to capture the details of the incident;
 - (2) contain an accurate account of the events leading to the use of force incident;
 - (3) include a description of the instrument(s) of restraint or control, if any, and the manner in which it was used;
 - (4) note whether an inmate disciplinary report was completed in connection with the incident that prompted the use of force;
 - (5) describe the nature and extent of apparent and reported injuries sustained both by the inmate and staff member;
 - (6) contain the date and time medical attention was actually provided;
 - (7) describe, in detailed, factual terms, the type and amount of force used as well as the precise actions taken in a particular incident; and

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- (8) note whether a use of force was videotaped. If the use of force is not videotaped, the reporting correctional officer and supervisor will provide an explanation as to why it was not videotaped.

- e. CCDOC shall continue to require prompt review by the shift commander of all use of force reports. The shift commander's review of use of force reports shall include review for completeness and procedural errors, as well as review of the substantive content. If the use of force report does not comply with provision 31.d. of this Agreed Order, the shift commander shall return it to the reporting officer for revision and resubmission until it is compliant. If the shift commander believes a use of force may have been inappropriate or excessive, he or she shall immediately refer the incident for investigation.
- f. CCDOC shall ensure that senior management review of uses of force includes:
 - (1) a timely review of medical documentation of inmate injuries, if any is submitted, as provided by Qualified Medical Staff, including documentation surrounding the initial medical encounter, an anatomical drawing that depicts the areas of sustained injury, and information regarding any further medical care;
 - (2) the inmate disciplinary report, if any, associated with the use of force; and
 - (3) the incident report, if any, associated with the use of force.
- g. CCDOC shall establish criteria that trigger referral for inappropriate or excessive use of force investigations, including but not limited to, documented or known injuries that are extensive or serious; injuries involving fractures or head trauma; injuries of a suspicious nature (including black eyes, injuries to the mouth, injuries to the genitals, etc.); and injuries that require treatment at outside hospitals.
- h. When CCDOC review of use of force reports, and supporting records if applicable, reveals that reports of a use of force are materially inconsistent, conflicting, or suspicious, CCDOC shall refer that use of force incident for internal investigation.
- i. CCDOC shall develop and implement a system to track all incidents of use of force that, at a minimum, includes the following information:

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- (1) a tracking number;
- (2) the inmate(s) name;
- (3) housing assignment;
- (4) date;
- (5) type of incident;
- (6) injuries (if applicable);
- (7) medical care provided (if applicable);
- (8) staff involved;
- (9) reviewing supervisor;
- (10) external reviews and results (if applicable);
- (11) remedy taken (if appropriate); and
- (12) administrative sign-off.
- j. CCDOC shall ensure that, promptly following a use of force incident, video or photographs are taken of any and all reported or apparent injuries sustained by inmates and staff. The video or photographs will be maintained and will be included in the investigation package, if applicable.
- k. CCDOC shall establish an "early warning system" that will document and track correctional officers who are involved in use of force incidents and any complaints related to the inappropriate or excessive use of force, in order to alert CCDOC administration to any potential need for retraining, discipline, problematic policies, or supervision lapses. Appropriate CCDOC leadership, supervisors, and investigative staff shall have access to this information and monitor the occurrences. CCDOC senior management shall use information from the early warning system to improve quality management practices, identify patterns and trends, and take necessary corrective action both on an individual and systemic level.
- l. CCDOC shall ensure that a supervisor is present during all pre-planned uses of force, such as cell extractions.
- m. Where there is evidence of staff misconduct related to inappropriate or unnecessary use of force against inmates, CCDOC shall initiate personnel actions and seek disciplinary action appropriately for any correctional officer found to have:
 - (1) engaged in inappropriate or excessive use of force;
 - (2) failed to report or report accurately the use of force;

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- (3) retaliated against an inmate or other staff member for reporting an inappropriate or excessive use of force; or
- (4) interfered or failed to cooperate with an internal investigation regarding use of force in a manner inconsistent with the staff member's statutory or contractual rights.
- n. Where there is evidence of staff misconduct related to inappropriate or unnecessary use of force against inmates, CCDOC shall consider, develop, and initiate systemic remedies as appropriate.
- o. CCDOC shall maintain accountability policies and procedures for the effective and accurate maintenance, inventory, and assignment of chemical and other security equipment, in accordance with generally accepted correctional standards.
- p. CCDOC shall continue to conduct use of force training in accordance with generally accepted correctional standards, including:
 - (1) CCDOC shall maintain an effective and comprehensive use of force training program.
 - (2) CCDOC shall continue to ensure that correctional officers receive adequate training in CCDOC's use of force policies and procedures, including de-escalation and defensive tactics relating to use of force.
 - (3) CCDOC shall continue to ensure that correctional officers receive pre-service and in-service training on reporting use of force and completing use of force reports.
- q. CCDOC shall provide a process for inmates to report allegations of the inappropriate or excessive use of force orally to any CCDOC staff member; said staff member shall give the inmate the opportunity to reduce his or her report to writing through a grievance or complaint form without discouragement.
- r. Following a use of force, when CCDOC staff transport an inmate to receive medical care by Cermak, as necessary, the CCDOC staff member shall inform the Cermak staff member that the inmate was involved in a use of force.
- s. Cermak shall ensure that, when providing medical treatment or assessment to an

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housing units, and document the results of their inspections.

- e. Cook County shall increase the use of overhead video surveillance and recording cameras to provide adequate coverage throughout the common areas of the Facility, including the RCDC, all division intake areas, mental health units, special management units, inmate housing units, and in common areas of the divisions.
- f. CCDOC shall maintain a procedure to prevent inmates from possessing or having access to dangerous contraband, including conducting regular inspections of cells and common areas of the housing units to identify and prevent rule violations by inmates.
- g. CCDOC shall review, and revise as applicable, all General Orders ("GOs"), Standard Operating Procedures ("SOPs"), and Post Orders on an annual basis, or more frequently as needed.
- h. CCDOC shall revise policies, SOPs, and post orders for all armed posts to include proper use and safe handling of weapons and provide specific instructions on use of deadly force and when and under what circumstances such force should be used, in accordance with generally accepted correctional standards.
- i. CCDOC shall standardize security policies, procedures, staffing reports, and post analysis reports across the divisions, to the extent possible, taking into account the different security levels and different physical layouts in the various divisions.
- j. CCDOC shall provide formal training on division-specific SOPs to correctional officers in accordance with their assignments, and shall provide further specialized training for officers assigned to Special Management Units. Cermak Hospital shall provide Specialized training for officers assigned to psychiatric units.
- k. CCDOC shall maintain in working order all monitoring equipment at the Facility that is under CCDOC's direct control, including cameras, alarms, radios (hand held), interior and exterior lighting, x-ray and other screening equipment, and walk-through metal detectors. To the extent that the maintenance of any Facility monitoring equipment is under the control of DFM, CCDOC shall promptly report any maintenance needs and DFM shall prioritize its services to ensure that all monitoring equipment is maintained in working order.

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- inmate following a use of force, Qualified Medical Staff document the inmate's injuries, if any, and any medical care provided. Cermak shall provide CCDOC senior management with a brief summary documenting the initial medical encounter following a use of force, including an anatomical drawing that depicts the areas of sustained injury, if any, and information regarding any further medical care.
- t. Cermak shall ensure that Qualified Medical Staff question, outside the hearing of other inmates or correctional officers if appropriate, each inmate who reports for medical care with an injury, regarding the cause of the injury. If, in the course of the inmate's medical encounter, a health care provider suspects staff-on-inmate or inmate-on-inmate abuse, that health care provider shall immediately:
 - (1) report the suspected abuse to the Executive Director of the Office of Professional Review or other appropriate CCDOC administrator; and
 - (2) adequately document the matter in the inmate's medical record.
- 32. Safety and Supervision
 - a. CCDOC shall maintain security and control-related policies, procedures, and practices that will result in a reasonably safe and secure environment for all inmates and staff, in accordance with generally accepted correctional standards.
 - b. CCDOC shall maintain policies, procedures, and practices to ensure the adequate supervision of inmate work areas and trustees, in accordance with generally accepted correctional standards.
 - c. CCDOC shall ensure that security staff conduct appropriate rounds with sufficient frequency to provide inmates with reasonable safety. Rounds shall be conducted at least once every half hour, at irregular intervals, inside each housing unit. In the alternative, CCDOC may provide direct supervision of inmates by posting a correctional officer inside the day room area of a housing unit to conduct constant surveillance. More frequent rounds shall be conducted for special management inmates who require more intensive supervision for security and safety reasons. All security rounds shall be documented on forms or logs that do not contain pre-printed rounding times. Video surveillance may be used to supplement, but must not be used to replace, rounds by correctional officers.
 - d. CCDOC shall ensure that security supervisors conduct daily rounds in the inmate

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- l. Absent exigent circumstances, CCDOC: (i) shall house each inmate assigned to a division that is celled to one permanent bed in a cell and shall not house any inmates (including those assigned to dormitory divisions) such that they are sleeping on the floor, on a mattress on the floor, or in any area not designed or redesigned as sleeping quarters; (ii) shall not house more than two inmates to a single cell (triple-bunking); and (iii) shall not hot-bunk any inmates.
- m. When exigent circumstances give rise to triple-bunking, CCDOC shall provide the third inmate in the triple-bunked cell a "boat," stackable bunk, moveable platform, or cot, so that the inmate is not required to lay down directly on the cell floor or on a mattress on the floor.
- 33. Security Staffing. The parties agree that correctional officer staffing and supervision levels at the Facility must be appropriate to adequately supervise inmates, to carry out the requirements of this Agreed Order, and to allow for the safe operation of the Facility, consistent with generally accepted correctional standards. Cook County and CCDOC shall take such actions as shall ensure that correctional officer staffing and supervision at the Facility are sufficient to achieve these purposes. These actions shall include the following:
 - a. In the fiscal year 2010 budget, Cook County shall allocate funds sufficient to allow for 210 additional correctional officer positions at the Facility. Consistent with provision 33.c, such funding may occur on a rolling basis, as appropriate in light of the time required to hire, train, and put on duty the additional 210 new correctional officers.
 - b. CCDOC shall use its best efforts (through the maintenance of the written staffing plan required by provision 33.h and otherwise) to ensure that the number of correctional officer vacancies is kept to the minimum practicable number at all times, taking into account that the timing of terminations and resignations and the resulting rate of attrition may, in ordinary course, result in there being some vacancies at any given time.
 - c. CCDOC shall fill the 210 additional correctional officer slots provided for in provision 33.a; fill the 285 correctional officer vacancies that existed at the Facility as of July 17, 2009; and fill any correctional officer vacancies coming into existence after that date in the following manner:
 - i. By December 31, 2010, CCDOC shall hire, train, and put on duty at the Facility at least 448 newly qualified correctional officers (in addition to

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those on duty as of December 31, 2009).

- ii. By March 30, 2011, CCDOC shall hire, train, and put on duty at the Facility at least 174 newly qualified correctional officers (in addition to those on duty as of December 31, 2010).
- d. The parties agree that for 30 months following the effective date of this Agreed Order, Cook County and CCDOC shall not be required to provide additional correctional officer staffing and supervision at the Facility beyond that which is necessary to ensure that correctional officer staffing and supervision are sufficient to achieve the purposes set out in the introductory paragraph of provision 33 and to comply with provisions 33.a-c above.
- e. Within 30 months of the effective date of this Agreed Order, the CCDOC Monitor shall assess and make a recommendation on whether the correctional officer staffing and supervision levels are appropriate to adequately supervise inmates at the Facility, in accordance with generally accepted correctional standards. If the CCDOC Monitor determines that staffing is inadequate, the CCDOC Monitor will make a recommendation regarding the appropriate number of correctional officer staff. If the parties do not accept the CCDOC Monitor's staffing recommendation, CCDOC and Cook County shall agree to an independent, comprehensive study to determine the appropriate correctional officer staffing and supervision. The parties agree that the results of this staffing study shall provide guidance as to the sufficient number of qualified correctional officers necessary to operate the Facility safely and to carry out the requirements of this Agreed Order.
- f. If the staffing study requires additional correctional officers, Cook County shall allocate funds sufficient to maintain correctional officer staffing levels necessary to carry out the requirements of this Agreed Order and to allow for the safe operation of the Facility, consistent with generally accepted correctional standards.
- g. If the staffing study requires additional correctional officers, and consistent with Cook County's allocation of funds for security staffing, CCDOC shall hire and train sufficient number of qualified correctional officers and other staff to carry out the requirements of this Agreed Order and to allow for the safe operation of the Facility, consistent with generally accepted correctional standards, including:
 - (1) Investigative staffing sufficient to meet the internal investigation responsibilities outlined in this Agreed Order;

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34. Incidents and Referrals

- a. CCDOC shall continue to ensure that staff adequately and promptly document all reportable incidents, including inmate fights, rule violations, inmate injuries, suicides and suicide attempts, cell extractions, medical emergencies, contraband, vandalism, escapes and escape attempts, fires, and other incidents causing a disruption to standard CCDOC practice, in accordance with generally accepted correctional standards.
- b. CCDOC shall continue to ensure that correctional officers receive formal pre-service and in-service training on proper incident reporting policies and procedures, in accordance with generally accepted correctional standards.
- c. CCDOC shall maintain a system to track all reportable incidents (as described in provision 34.a) that, at a minimum, includes the following information:
 - (1) incident tracking number;
 - (2) the inmate(s) name;
 - (3) housing assignment;
 - (4) date;
 - (5) type of incident;
 - (6) injuries (if applicable);
 - (7) medical care (if applicable);
 - (8) primary and secondary staff involved;
 - (9) reviewing supervisor;
 - (10) external reviews and results (if applicable);
 - (11) remedy taken (if appropriate); and
 - (12) administrative sign-off.
- d. CCDOC shall require prompt administrative review of incident reports. Such reviews shall include a case-by-case review of individual incidents as well as a systemic review in order to identify patterns of incidents. CCDOC shall incorporate such information into quality management practices and take necessary corrective action.
- e. CCDOC shall ensure that incident reports, use of force reports and inmate grievances are screened for allegations of staff misconduct and, if the incident or allegation meets established criteria, that it is referred for investigation.

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- (2) Correctional officer staffing sufficient to provide inmates requiring treatment with adequate access to appropriate medical and mental health care by providing timely movement of inmates to medical units, transport of inmates who have been referred for outside specialty care, and escort, if necessary, to Qualified Medical and Mental Health Staff on housing units; and
- (3) Qualified staff sufficient to monitor security cameras in real time and allow for supervisory viewing and retrieving at any time.
- h. CCDOC shall maintain a written staffing plan that requires sufficient staffing to carry out the requirements of this Agreed Order and to allow for the safe operation of the Facility, consistent with generally accepted correctional standards.
- i. Absent exigent circumstances, CCDOC shall maintain a practice that does not allow for scheduled, planned, or expected cross-watching (a CCDOC practice of allowing one correctional officer to simultaneously supervise two housing units from the control center of one of the units) at any time on all maximum security and Special Management Units, and during first and second shifts throughout the Facility.
- j. CCDOC may permit cross-watching on third shift in housing units that are not maximum security or Special Management Units only if the Monitor does not object after consultation and review. The Monitor's review of the appropriateness of third-shift cross-watching on a particular housing unit shall be guided by the sufficiency of sightlines between the units being cross-watched, the adequacy of video and/or audio technologies in place, and/or other factors that bear on the safety and security of inmates and staff. If the Monitor later objects to any cross-watching that is in effect because of the Monitor's concerns that cross-watching on a particular housing unit presents an undue risk to the safety and security of inmates and staff, CCDOC shall immediately cease such cross-watching. CCDOC may renew cross-watching on that unit again if, after further consultation with and review by the Monitor, the Monitor does not object to such renewal. Although cross-watching is permitted under the limited circumstances described herein, CCDOC will work to eliminate the practice at the Facility.

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- f. CCDOC shall maintain policies, procedures and practices requiring investigations to resolve issues identified during review of incident reports, disciplinary hearings, or inmate grievances, and determine appropriate remedies, in accordance with generally accepted correctional standards. At a minimum, CCDOC shall require timely and appropriate investigations of all suicides, serious suicide attempts, inmate-on-inmate violence resulting in serious injury, inmate-on-staff violence, inmate injuries requiring treatment by an outside hospital, inmate injuries of a suspicious nature (including black eyes, injuries to the mouth, injuries to the genitals, etc.), sexual misconduct between inmates, sexual misconduct involving staff, fires, escapes, escape attempts, and deaths.
- g. CCDOC shall ensure that any investigation reports indicating possible criminal behavior will be referred to the appropriate law enforcement authority.

35. Investigations

Investigations at the Facility are conducted by independent departments under the Cook County Sheriff's Office, including the Office of Professional Review, the Criminal Investigations Unit, and the Sheriff's Police Department. The Cook County Sheriff will assume responsibility for requiring these investigatory units to comply with the relevant provisions of this Agreed Order.

- a. CCDOC shall maintain comprehensive policies, procedures, and practices for the timely and thorough investigation of alleged staff misconduct, in accordance with generally accepted correctional standards.
- b. Internal investigations shall be conducted by persons who do not have supervisory responsibility for the staff member(s) being investigated.
- c. CCDOC shall ensure that all internal investigations will include timely, thorough, and documented interviews of all relevant staff and inmates who were involved in, or witnessed, the incident in question.
- d. CCDOC shall ensure that internal investigation reports shall include all supporting evidence, including witness and participant statements, policies and procedures relevant to the incident, physical evidence, video or audio recordings, and relevant logs.
- e. CCDOC shall ensure that all investigatory staff will receive pre-service and in-service training on appropriate investigations policies and procedures, the

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investigations tracking process, investigatory interviewing techniques, and confidentiality requirements.

- f. CCDOC shall provide all investigators who will be assigned to conduct investigations of use of force incidents with specialized training in investigating use of force incidents and allegations.
- g. CCDOC shall ensure that the results of each internal investigation shall be documented in an investigation report. CCDOC administration shall review the investigation reports, along with the underlying documentation, and take appropriate action. CCDOC shall implement appropriate remedies based upon the results of internal investigations.

36. Inmate Disciplinary Process

- a. CCDOC shall maintain policies, procedures, and practices for a formal disciplinary process, including prompt issuance of written disciplinary citations, administrative review and disciplinary reports for alleged minor rule violations, and due process for alleged major rules violations, in accordance with generally accepted correctional standards.
- b. CCDOC shall ensure that inmate disciplinary hearings are conducted in a reasonably private and secure setting.
- c. CCDOC shall ensure that all inmates placed in lock down status are provided with appropriate due process that has been developed and implemented in policies and procedures, in accordance with generally accepted correctional standards. In an emergency, the Executive Director of CCDOC may order a lock down of entire areas of the Facility in order to control the situation and address serious security concerns. In such circumstances, it is not necessary to provide disciplinary hearings to each inmate affected by the lock down. However, lock downs of this nature shall be limited to only the time and scope necessary to address the emergency. For the purposes of this Agreed Order, a "lock down" shall not include the routine instances in which inmates are confined to their cells, including periods of count, over night, shift change, movement, and routine contraband sweeps.
- d. CCDOC shall ensure that the disciplinary board's written record accurately reflects the testimony and discussion from the disciplinary hearing, including any recommendations from a mental health professional regarding the extent to which

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38. Inmate Grievance Procedure

- a. CCDOC shall maintain policies and procedures to ensure inmates have access to an adequate grievance process and to ensure that grievances may be accessed and filed confidentially, without requiring the intervention of a correctional officer, in accordance with generally accepted correctional standards. These policies and procedures should be applicable and standardized across all the Facility divisions.
- b. CCDOC shall ensure that the grievances receive appropriate follow-up, including informing the grievant of the outcome, providing a timely written response, and tracking implementation of resolutions.
- c. CCDOC shall ensure that grievance forms are available on all units and are available in Spanish. CCDOC shall ensure that there is adequate opportunity for illiterate inmates and inmates who have physical or cognitive disabilities to access the grievance system.
- d. CCDOC shall ensure that inmate grievances are screened for allegations of staff misconduct and, if the incident or allegation meets established criteria, are referred for investigation. A member of the management staff shall review the grievance tracking system regularly in order to identify areas of concern.

39. Access to Information

- a. CCDOC shall ensure that newly admitted inmates receive information, through an inmate handbook or orientation video, regarding the following areas: facility rules and regulations; how to report misconduct; how to report sexual abuse or assault; the process for accessing medical and mental health care; emergency procedures; rules for sending and receiving mail; the visitation process; facility schedule; the disciplinary process; and how to seek redress of grievances.
- b. CCDOC shall ensure that materials on facility rules and services are available for non-literate and non-English speaking inmates.

- 40. CCDOC shall provide training and supervision to all correctional officers and supervisors sufficient to implement the provisions of this Agreed Order.

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disciplinary charges are related to an inmate's serious mental illness or suggestions for minimizing the deleterious effect of disciplinary measure on the mental health status of the inmate.

- e. CCDOC shall alert Cermak when inmates are placed in disciplinary segregation or protective custody.
- f. CCDOC shall permit a Cermak Qualified Mental Health Staff member to serve on the disciplinary board.

37. Classification

- a. CCDOC shall maintain policies and procedures for an appropriate, objective classification system that separates inmates in housing units by classification levels in order to protect inmates from unreasonable risk of harm. The system shall include consideration of an inmate's security level, severity of current charge, types of prior commitments, suicide risk, history of escape attempts, history of violence, and special needs. CCDOC shall use best efforts to anticipate periods of unusual intake volume and schedule sufficient classification staff to timely classify inmates.
- b. CCDOC shall ensure that classification staff have sufficient access to current information regarding cell availability on each division.
- c. CCDOC shall include information on each inmate's assignment to the Special Incarceration Unit "level system" at the Facility in the new Jail Management System, starting with the date the new Jail Management System becomes operational.
- d. CCDOC shall provide training and access to all correctional officer supervisors on the full capabilities of the new Jail Management System's classification and inmate tracking system (or any replacement system).
- e. CCDOC shall provide ongoing internal and external review and validation of the inmate classification system to ensure its reliability and objectivity.

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B. HEALTH CARE SERVICES: ELEMENTS COMMON TO MEDICAL AND MENTAL HEALTH

41. Inter-Agency Agreement

- a. CCDOC shall enter into a written Inter-Agency Agreement with Cermak that delineates the mutual responsibilities of each party, relative to the provision of health care to inmates at the Facility. The Inter-Agency Agreement shall be finalized within 60 days of the effective date of this Agreed Order.
- b. Cermak shall enter into a written Inter-Agency Agreement with CCDOC that delineates the mutual responsibilities of each party, relative to the provision of health care to inmates at the Facility. The Inter-Agency Agreement shall be finalized within 60 days of the effective date of this Agreed Order.

- 42. Cermak shall provide adequate services to address the serious medical and mental health needs of all inmates, in accordance with generally accepted professional standards. The term "generally accepted professional standards" means those industry standards accepted by a majority of professionals in the relevant field, and reflected in the standards of care such as those published by the National Commission on Correctional Health Care ("NCHC").

- a. Cermak shall develop and implement medical care policies, procedures, and practices to address and guide all medical care and services at the Facility, including, but not limited to the following:

- (1) access to medical care;
- (2) continuity of medication;
- (3) infection control;
- (4) medication administration;
- (5) intoxication and detoxification;
- (6) documentation and record-keeping;
- (7) disease prevention;
- (8) sick call triage and physician review;
- (9) intake screening;
- (10) chronic disease management;
- (11) comprehensive health assessments;
- (12) mental health;
- (13) women's health;
- (14) quality management;

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- (15) emergent response;
- (16) infirmary care;
- (17) placement in medical housing units;
- (18) handling of grievances relating to health care;
- (19) mortality review; and
- (20) care for patients returning from off-site referrals.
- b. Cermak shall develop and implement policies, procedures, and practices to ensure timely responses to clinician orders including, but not limited to, orders for medications and laboratory tests. Such policies, procedures, and practices shall be periodically evaluated to ensure timely implementation of clinician orders.
43. Medical Facilities
- a. CCDOC will work with Cermak to provide sufficient clinical space, as identified by Cermak staff, to provide inmates with adequate health care to meet the treatment needs of detainees, including:
- (1) intake screening;
- (2) sick call;
- (3) medical and mental health assessment;
- (4) acute, chronic, emergency, and specialty medical care (such as geriatric and pregnant inmates); and
- (5) acute, chronic, and emergency mental health care.
- b. Cermak staff shall make known to CCDOC and Cook County its needs for sufficient clinical space, with access to appropriate utility and communications capabilities, to provide inmates with adequate health care to meet the treatment needs of detainees, including:
- (1) intake screening;
- (2) sick call;
- (3) medical and mental health assessment;
- (4) acute, chronic, emergency, and specialty medical care (such as geriatric and pregnant inmates); and
- (5) acute, chronic, and emergency mental health care.
- c. Cook County shall build out, remodel, or renovate clinical space as needed to provide inmates with adequate health care to meet the treatment needs of detainees, as identified by Cermak staff, including:

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- extent possible in the current Facility.
44. Staffing, Training, Supervision, and Leadership
- a. Cermak shall maintain a stable leadership team that clearly understands and is prepared to move forward toward implementation of the provisions of this Agreed Order, with respect to:
- (1) Medical care; and
- (2) Mental health care.
- b. Cermak shall maintain an adequate written staffing plan and sufficient staffing levels of health care staff to provide care for inmates' serious health needs, including:
- (1) Qualified Medical Staff; and
- (2) Qualified Mental Health Staff.
- c. Cermak shall ensure that all Qualified Medical Staff and Qualified Mental Health Staff are adequately trained to meet the serious health care needs of inmates. All such staff shall receive documented orientation and in-service training on relevant topics, including:
- (1) Provision of health care in a correctional setting and Facility-specific issues; and
- (2) Suicide prevention, and identification and care of inmates with mental illness.
- d. Cermak shall ensure that Qualified Medical Staff receive adequate physician oversight and supervision.
- e. Cermak shall ensure that all persons providing health care meet applicable state licensure and/or certification requirements, and practice only within the scope of their training and licensure. Upon hiring and annually, Cermak shall verify that all health care staff have current, valid, and unrestricted professional licenses and/or certifications for:
- (1) Medical staff; and
- (2) Mental health staff.

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- (1) intake screening;
- (2) sick call;
- (3) medical and mental health assessment;
- (4) acute, chronic, emergency, and specialty medical care (such as geriatric and pregnant inmates); and
- (5) acute, chronic, and emergency mental health care.
- d. Cermak shall ensure that medical areas are adequately clean and maintained, including installation of adequate lighting in medical exam rooms. Cermak shall ensure that hand washing stations in medical areas are fully equipped, operational, and accessible.
- e. Cermak shall ensure that appropriate containers are readily available to secure and dispose of medical waste (including syringes and sharp medical tools) and hazardous waste.
- f. CCDOC shall allow operationally for inmates' reasonable privacy in medical and mental health care, and shall respect the confidentiality of inmates' medical status, subject to legitimate security concerns and emergency situations. Reasonable privacy typically includes sight and hearing privacy from other inmates and hearing privacy from staff that are not providing health care.
- g. Cermak shall make known to CCDOC and Cook County the structural and operational requirements for inmates' reasonable privacy in medical and mental health care. Cermak shall provide operationally for inmates' reasonable privacy in medical and mental health care and shall maintain confidentiality of inmates' medical status, subject to legitimate security concerns and emergency situations. Reasonable privacy typically includes sight and hearing privacy from other inmates and hearing privacy from staff that are not providing health care.
- h. Cook County shall build out, remodel, or renovate clinical space as needed to allow structurally for inmates' reasonable privacy in medical and mental health care, as identified by Cermak and CCDOC staff.
- i. Cook County shall begin construction of the new clinical space within three months of the effective date of this Agreed Order. It is expected that the project will be complete within nine months of the effective date of this Agreed Order. Prior to completion of the new clinical space, Cook County and DFM will work with Cermak to address the most serious concerns regarding clinical space, to the

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- f. Cermak will work with CCDOC to develop and maintain a curriculum for initial and periodic training of correctional officers on recognition and timely referral of inmates with medical urgencies, including drug and alcohol withdrawal. Cermak will provide adequate initial and periodic training on these topics to all Cermak staff who work with inmates.
- g. CCDOC will provide, to all CCDOC staff who work with inmates, adequate initial and periodic training on basic mental health information, including the identification, evaluation, and custodial care of persons in need of mental health care, as well as recognition of signs and symptoms evidencing a response to trauma; appropriately responding to mental illness; proper supervision of inmates suffering from mental illness; and the appropriate use of force for inmates who suffer from mental illness. Such training shall be conducted by a Qualified Mental Health Professional, registered psychiatric nurse, or other appropriately trained and qualified individual.
- h. Cermak will work with CCDOC to develop and maintain a curriculum for initial and periodic training of correctional officers on basic mental health information, including the identification, evaluation, and custodial care of persons in need of mental health care, as well as recognition of signs and symptoms evidencing a response to trauma; appropriately responding to mental illness; proper supervision of inmates suffering from mental illness; and the appropriate use of force for inmates who suffer from mental illness. Such training shall be conducted by a Qualified Mental Health Professional, registered psychiatric nurse, or other appropriately trained and qualified individual.
- g. Cermak shall ensure that all health care staff receive adequate training to properly implement the provisions of this Agreed Order, including:
- (1) Medical staff; and
- (2) Mental health staff.

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medical needs, shall assess and document the inmate's vital signs, and shall seek the inmate's cooperation to provide information, regarding:

- (1) medical, surgical, and mental health history, including current or recent medications, including psychotropic medications;
 - (2) history and symptoms of chronic disease, including current blood sugar level for inmates reporting a history of diabetes;
 - (3) current injuries, illnesses, evidence of trauma, and vital signs, including recent alcohol and substance use;
 - (4) history of substance abuse and treatment;
 - (5) pregnancy;
 - (6) history and symptoms of communicable disease;
 - (7) suicide risk history; and
 - (8) history of mental illness and treatment, including medication and hospitalization.
- c. Cermak shall ensure that, upon admission to the Facility, Qualified Mental Health Staff, Qualified Medical Staff, or Licensed Correctional Medical Technicians utilize an appropriate mental health intake screening instrument to identify and record observable and non-observable mental health needs, and seek the inmate's cooperation to provide information, regarding:
- (1) past suicidal ideation and/or attempts;
 - (2) current ideation, threat, or plan;
 - (3) prior mental illness treatment or hospitalization;
 - (4) recent significant loss, such as the death of a family member or close friend;
 - (5) previously identified suicide risk during any prior confinement at CCDOC;
 - (6) any observations of the transporting officer, court, transferring agency, or similar individuals regarding the inmate's potential suicide risk, if such information is communicated to Cermak staff;
 - (8) psychotropic medication history; and
 - (9) alcohol and other substance use and withdrawal history.
- d. Cermak shall ensure that all Qualified Mental Health Staff, Qualified Medical Staff, or Licensed Correctional Medical Technicians who conduct the medical and mental health intake screenings are properly trained on the intake screening process, instrument, and the requirements and procedures for referring all qualifying inmates for further assessment.

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or Qualified Mental Health Professional, with appropriate prescribing authority, shall decide whether to continue the same or comparable medication for serious medical and mental health needs that an inmate reports during intake screening that she or he has been prescribed. If the inmate's reported medication is discontinued or changed, other than minor dosage adjustments or substitution of a therapeutic equivalent, a Qualified Medical Professional or Qualified Mental Health Professional, with appropriate prescribing authority, shall evaluate the inmate face-to-face as soon as medically appropriate, and within no greater than five working days, and document the reason for the change.

46. Emergency Care
- a. Cermak shall train health care staff to recognize and respond appropriately to health care emergencies, including:
 - (1) Medical emergencies;
 - (2) Mental health emergencies; and
 - (3) Drug and alcohol withdrawal.
 - b. CCDOC shall train correctional officers to recognize and respond appropriately to health care emergencies, including:
 - (1) Medical emergencies;
 - (2) Mental health emergencies; and
 - (3) Drug and alcohol withdrawal.
 - c. CCDOC shall ensure that all inmates with emergency health care needs receive prompt transport, including transport for outside care, for emergencies including:
 - (1) Medical emergencies; and
 - (2) Mental health emergencies.
 - d. Cermak shall ensure that all inmates with emergency health care needs receive timely and appropriate care, with prompt referrals for outside care when medically necessary, and shall notify CCDOC when emergency transport is needed inside or outside the Facility compound, for emergencies including:
 - (1) Medical emergencies; and
 - (2) Mental health emergencies.

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- e. If Cermak assigns Licensed Correctional Medical Technicians to perform intake screening, they shall receive appropriate, on-site supervision by on-site Qualified Medical Staff; information obtained on screening for all inmates will be reviewed by Qualified Medical Staff before the inmate departs the intake area.
- f. Cermak shall ensure that a medical assessment based on the symptoms or problems identified during intake screening is performed within two working days of booking at the Facility, or sooner if clinically indicated, by a Qualified Medical Professional for any inmate who screens positively for any of the following conditions during the medical or mental health intake screenings:
- (1) Past history and symptoms of any chronic disease included on a list specified by Cermak's policies and procedures;
 - (2) Current or recent prescription medications and dosage, including psychotropic medications;
 - (3) Current injuries or evidence of trauma;
 - (4) Significantly abnormal vital signs, as defined by Cermak's policies and procedures;
 - (5) Risk of withdrawal from alcohol, opioid, benzodiazepine, or other substances;
 - (6) Pregnancy;
 - (7) Symptoms of communicable disease; and
 - (8) History of mental illness or treatment, including medication and/or hospitalization.
- g. Cermak shall ensure that any inmate who screens positively for mental illness or suicidal ideation during the intake process receives a comprehensive mental health evaluation (see provision 59.c, "Mental Health: Assessment and Treatment") Cermak shall ensure timely access to a Qualified Mental Health Professional for this purpose, based on emergent, urgent, and routine medical or mental health needs.
- h. Cermak shall ensure that the intake health screening information is incorporated into the inmate's medical record in a timely manner.
- i. Cermak shall implement a medication continuity system so that incoming inmates' medication for serious medical and mental needs can be obtained in a timely manner, as medically appropriate. Within 24 hours of an inmate's booking at the Facility, or sooner if medically necessary, a Qualified Medical Professional

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- e. CCDOC shall train all correctional officers to provide first responder assistance (including cardiopulmonary resuscitation ("CPR") and addressing serious bleeding) in emergency situations. CCDOC shall provide all correctional officers with the necessary protective gear, including masks and gloves, to provide first line emergency response.
47. Record Keeping
- a. Cermak shall ensure that medical and mental health records are adequate to assist in providing and managing the medical and mental health needs of inmates at the Facility and are maintained consistent with local, federal, and state medical records requirements.
 - b. Cermak shall ensure that medical and mental health records are centralized, complete, accurate, readily accessible, and systematically organized. All clinical encounters and reviews of inmates should be documented in the inmates' records.
 - c. To ensure continuity of care, Cermak shall submit appropriate medical information to outside medical providers when inmates are sent out of the Facility for medical care. Cermak shall appropriately request records of care, reports, and diagnostic tests received during outside appointments in a timely fashion and include such records in the inmate's medical record or document the inmate's refusal to cooperate and release medical records.
 - d. Cermak shall maintain unified medical and mental health records, including documentation of all clinical information regarding evaluation and treatment.
48. Mortality Reviews
- a. Cermak shall request an autopsy, and related medical data, for every inmate who dies while in the custody of CCDOC, including inmates who die following transfer to a hospital or emergency room.
 - b. Relevant CCDOC personnel shall participate in Cermak's mortality review for each inmate death while in custody, including inmates who die following transfer to a hospital or emergency room, and a morbidity review for all serious suicide attempts or other incidents in which an inmate was at high risk for death. Mortality and morbidity reviews shall seek to determine whether there was a systemic or specific problem that may have contributed to the incident. At a minimum, CCDOC's contribution to mortality and morbidity reviews shall

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include:

- (1) critical review and analysis of the correctional circumstances surrounding the incident;
- (2) critical review of the correctional procedures relevant to the incident;
- (3) synopsis of all relevant training received by involved correctional staff;
- (4) possible precipitating correctional factors leading to the incident; and
- (5) recommendations, if any, for changes in correctional policy, training, physical plant, and operational procedures.

- c. Cermak shall conduct a mortality review for each inmate death while in custody, including inmates who die following transfer to a hospital or emergency room, and a morbidity review for all serious suicide attempts or other incidents in which an inmate was at high risk for death. Cermak shall engage relevant CCDOC personnel in mortality and morbidity reviews and shall seek to determine whether there was a pattern of symptoms that might have resulted in earlier diagnosis and intervention. Mortality and morbidity reviews shall occur within 30 days of the incident or death, and shall be revisited when the final autopsy results are available. At a minimum, the mortality and morbidity reviews shall include:

- (1) critical review and analysis of the circumstances surrounding the incident;
- (2) critical review of the procedures relevant to the incident;
- (3) synopsis of all relevant training received by involved staff;
- (4) pertinent medical and mental health services/reports involving the victim;
- (5) possible precipitating factors leading to the incident; and
- (6) recommendations, if any, for changes in policy, training, physical plant, medical or mental health services, and operational procedures.

- d. Cermak shall address any problems identified during mortality and morbidity reviews through timely training, policy revision, and any other appropriate measures.

49. Cermak shall develop and implement policies and procedures for appropriate handling of grievances relating to health care, when such grievances are forwarded from CCDOC.

C. MEDICAL CARE

50. Health Assessments

- a. Cermak shall ensure that Qualified Medical Professionals attempt to elicit the

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51. Acute care

- a. Cermak shall provide adequate and timely acute care for inmates with serious and life-threatening conditions, and ensure that such care adequately addresses the serious medical needs of inmates. Adequate care will include timely medical appointments and follow-up medical treatment.

- b. Cermak shall maintain guidelines for the scope of care of acutely ill patients in its on-site designated infirmary units and for transfer of patients when appropriate to outside hospitals.

52. Chronic care

- a. Cermak shall maintain an appropriate, written chronic care disease management plan, which provides inmates with chronic diseases with timely and appropriate diagnosis, treatment, medication, monitoring, and continuity of care consistent with the inmates' expected length of stay.

- b. Cermak shall maintain appropriate written clinical practice guidelines for chronic diseases, such as HIV, hypertension, diabetes, asthma, and elevated blood lipids.

- c. Cermak shall maintain an updated registry to track all inmates with serious and/or chronic illnesses and shall monitor this registry to ensure that these inmates receive necessary diagnoses and treatment. Cermak shall keep records of all care provided to inmates diagnosed with chronic illnesses in the inmates' individual medical records.

- d. Cermak shall ensure that inmates with chronic conditions are routinely seen by a physician, physician assistant, or advanced practice nurse to evaluate the status of their health and the effectiveness of the medication administered for their chronic conditions.

- e. CCDOC shall house inmates with disabilities, or who need skilled nursing services or assistance with activities of daily living, in appropriate facilities, as determined by Cermak. CCDOC shall permit inmates with disabilities to retain appropriate aids to impairment, as determined by Cermak.

- f. Cermak shall ensure that inmates with disabilities or who need skilled nursing services or assistance with activities of daily living shall receive medically

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amount, frequency and time since the last dosage of medication from every inmate reporting that he or she is currently or recently on medication, including psychotropic medication.

- b. Cermak shall ensure that incoming inmates who present and are identified by medical personnel as having either a current risk of suicide or other acute mental health needs will be immediately referred for a mental health evaluation by a Qualified Mental Health Professional. Staff will constantly observe such inmates until they are seen by a Qualified Mental Health Professional or Qualified Mental Health Staff with appropriate, on-site supervision by a Qualified Mental Health Professional. Incoming inmates reporting these conditions will be housed in safe conditions unless and until a Mental Health Professional clears them for housing in a medical unit, segregation, or with the general population.

- c. Cermak shall ensure that all inmates at risk for, or demonstrating signs and symptoms of, drug and alcohol withdrawal are timely identified. Cermak shall provide appropriate treatment, housing, and medical supervision for inmates suffering from drug and alcohol withdrawal.

- d. CCDOC shall maintain a policy that correctional officers supervising newly arrived inmates physically observe the conduct and appearance of these inmates to determine whether they have a more immediate need for medical or mental health attention prior to or following the intake health screening by Qualified Medical Staff.

- e. Cermak shall ensure that the medical assessment performed within two working days of his or her booking at the Facility, or sooner if clinically indicated, for each inmate specified above (provision 45.f, "Intake Screening") shall include a review of the inmate's intake screening form, a medical history, a physical examination, a mental health history, and a current mental status examination. The physical examination shall be conducted by a Qualified Medical Professional. The medical assessment shall also include development or revision of the inmate's problem list and treatment plan to address issues identified during the medical assessment. Records documenting the assessment and results shall become part of each inmate's medical record. A re-admitted inmate or an inmate transferred from another facility who has received a documented medical assessment within the previous six months and whose receiving screening shows no change in the inmate's health status need not receive a new medical assessment. For such inmates, Qualified Medical Staff shall review prior records and update tests and examinations as needed.

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appropriate care. Cermak shall notify CCDOC of their specific needs for housing and aids to impairment.

- g. Cook County shall build out, remodel, or renovate clinical space as needed to provide appropriate facilities for inmates with disabilities in accordance with the timelines set out in provision 43.i. Prior to completion of the new clinical space, Cook County and DFM will work with Cermak to address the most serious concerns regarding facilities for inmates with disabilities, to the extent possible in the current Facility.

53. Treatment and Management of Communicable Disease

- a. Cermak shall maintain adequate testing, monitoring, and treatment programs for management of communicable diseases, including tuberculosis ("TB"), skin infections, and sexually transmitted infections ("STIs").

- b. CCDOC shall comply with infection control policies and procedures, as developed by Cermak, that address contact, blood borne, and airborne hazards, to prevent the spread of infections or communicable diseases, including TB, skin infections, and STIs, consistent with generally accepted correctional standards of care.

- c. Cermak shall maintain infection control policies and procedures that address contact, blood borne, and airborne hazards, to prevent the spread of infections or communicable diseases, including TB, skin infections, and STIs, consistent with generally accepted correctional standards of care. Such policies should provide guidelines for identification, treatment, and containment to prevent transmission of infectious diseases to staff or inmates.

- d. Pursuant to Centers for Disease Control ("CDC") Guidelines, Cermak shall continue to test all inmates for TB upon booking at the Facility and shall follow up on test results as medically indicated. Cermak shall follow current CDC guidelines for management of inmates with TB infection, including providing prophylactic medication when medically appropriate and consistent with the inmate's expected length of stay. Inmates who exhibit signs or symptoms consistent with TB shall be isolated from other inmates, evaluated for contagious TB, and housed in an appropriate, specialized respiratory isolation ("negative pressure") room. Cermak shall notify CCDOC of inmates' specific housing requirements and precautions for transportation for the purpose of infection control.

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- e. Cermak shall ensure that the negative pressure and ventilation systems function properly. Following CDC guidelines, Cermak shall test daily for rooms in-use and monthly for rooms not currently in-use. Cermak shall document results of such testing.
- f. Cermak shall notify DFM, in a timely manner, of routine and emergency maintenance needs, including plumbing, lighting, and ventilation problems.
- g. Cermak shall develop and implement adequate guidelines to ensure that inmates receive appropriate wound care. Such guidelines will include precautions to limit the possible spread of Methicillin-resistant Staphylococcus aureus ("MRSA") and other communicable diseases.
- h. Cermak shall adequately maintain statistical information regarding communicable disease screening programs and other relevant statistical data necessary to adequately identify, treat, and control infectious diseases.

54. Access to Health Care

- a. CCDOC will work with Cermak to facilitate timely and adequate accessibility of appropriate health care for inmates, as provided by Cermak.
- b. Cermak shall ensure the timely and adequate availability of appropriate health care for inmates.
- c. Cermak shall ensure that the medical request ("sick call") process for inmates is adequate and provides inmates with adequate access to medical care. The sick call process shall include:
 - (1) written medical and mental health care slips available in English, Spanish, and other languages, as needed;
 - (2) opportunity for illiterate inmates and inmates who have physical or cognitive disabilities to access medical and mental health care; and
 - (3) opportunity for all inmates, irrespective of primary language, to access medical and mental health care.
- d. Cermak shall ensure that the sick call process includes confidential collection,

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56. Medication Administration

- a. Cermak shall ensure that treatment and administration of medication to inmates is implemented in accordance with generally accepted correctional standards of care.
- b. Cermak shall develop policies and procedures to ensure the accurate administration of medication and maintenance of medication records. Cermak shall provide a systematic physician review of the use of medication to ensure that each inmate's prescribed regimen continues to be appropriate and effective for his or her condition.
- c. Cermak shall ensure that medicine administration is hygienic, appropriate for the needs of inmates, and is recorded concurrently with distribution.
- d. Cermak shall ensure that medication administration is performed by Qualified Nursing Staff.
- e. When Cermak prescribes medication to address an inmate's serious mental health needs, HIV or AIDS, or thromboembolic disease, Cermak shall alert CCDOC that the inmate in question is on a flagged medication. If the prescription is terminated during an inmate's stay at the Facility, Cermak will notify CCDOC.
- f. When CCDOC receives notice that an inmate is on a flagged medication, CCDOC shall include notation of a medication flag in the inmate's profile on the Facility's Jail Management System.
- g. When an inmate with a medication flag is processed for discharge at the Facility, CCDOC shall escort the inmate to designated Cermak staff in the intake screening area of the Facility for discharge medication instructions.
- h. When CCDOC escorts an inmate with a medication flag to Cermak staff during discharge processing, Cermak staff shall provide the inmate with printed instructions regarding prescription medication and community resources.
- i. Each morning, CCDOC shall provide Cermak with a list of all inmates with medication flags who were discharged the previous day.
- j. Within 24 hours of discharge of an inmate with a medication flag, Cermak shall call in an appropriate prescription to the designated pharmacy on the Stroger

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logging, and tracking of sick call requests seven days a week. Cermak shall ensure timely responses to sick call requests by Qualified Medical Staff. The logging procedure shall include documentation of the date and summary of each request for care, the date the inmate was seen, the name of the person who saw him or her, the disposition of the medical or mental health visit (e.g., referral; whether inmate scheduled for acute care visit), and, if follow-up care is necessary, the date and time of the inmate's next appointment. Cermak shall document the reason for and disposition of the medical or mental health care request in the inmate's medical record.

- e. Cermak shall develop and implement an effective system for screening medical requests within 24 hours of submission. Cermak shall ensure that sick call requests are appropriately prioritized based upon the seriousness of the medical issue.
- f. Cermak shall ensure that evaluation and treatment of inmates in response to a sick call request occurs in a clinical setting.
- g. Cermak shall ensure that Qualified Medical Staff make daily rounds in the isolation areas to give inmates in isolation adequate opportunities to contact and discuss medical and mental health concerns with Qualified Medical Staff in a setting that affords as much privacy as reasonable security precautions will allow. During rounds, Qualified Medical Staff will assess inmates for new clinical findings, such as deterioration of the inmate's condition.

55. Follow-Up Care

- a. Cermak shall provide adequate care and maintain appropriate records for inmates who return to the Facility following hospitalization or outside emergency room visits.
- b. Cermak shall ensure that inmates who receive specialty, emergency room, or hospital care are evaluated upon their return to the Facility and that, at a minimum, discharge instructions are obtained, appropriate Qualified Medical Staff reviews the information and documentation available from the visit, this review and the outside provider's documentation are recorded in the inmate's medical record, and appropriate follow-up is provided.

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Hospital campus to serve as a bridge until inmates can arrange for continuity of care in the community.

- k. CCDOC shall ensure that information about pending transfers of inmates is communicated to Cermak as soon as it is available.
- l. When CCDOC has advance notice and alerts Cermak of the pending transfer to another correctional facility of inmates with serious medical or mental health needs from detention, Cermak shall supply sufficient medication for the period of transit. In such cases, Cermak shall prepare and send with transferring inmates a transfer summary detailing major health problems and listing current medications and dosages, as well as medication history while at the Facility.
- m. CCDOC shall ensure that the transfer summary and any other medical records provided by Cermak will accompany inmates, or will be made available electronically or transmitted by facsimile, when they are transferred from the Facility to another institution.

57. Specialty Care

- a. Cermak shall ensure that inmates whose serious medical or mental health needs extend beyond the services available at the Facility shall receive timely and appropriate referral for specialty care to appropriate medical or mental health care professionals qualified to meet their needs.
- b. Upon reasonable notification by Cermak, CCDOC will transport inmates who have been referred for outside specialty care to their appointments.
- c. Cermak shall ensure that inmates who have been referred for outside specialty care by the medical staff or another specialty care provider are scheduled for timely outside care appointments. Cermak shall provide reasonable notice to CCDOC of such appointments so that CCDOC can arrange transportation. Inmates awaiting outside care shall be seen by Qualified Medical Staff as medically necessary, at clinically appropriate intervals, to evaluate the current urgency of the problem and respond as medically appropriate. If an inmate refuses treatment following transport for a scheduled appointment, Cermak shall have the inmate document his refusal in writing and include such documentation in the inmate's medical record.
- d. Cermak shall maintain a current log of all inmates who have been referred for

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outside specialty care, including the date of the referral, the date the appointment was scheduled, the date the appointment occurred, the reason for any missed or delayed appointments, and information on follow-up care, including the dates of any future appointments.

- e. Cermak shall ensure that pregnant inmates are provided adequate pre-natal care. Cermak shall develop and implement appropriate written policies and protocols for the treatment of pregnant inmates, including appropriate screening, treatment, and management of high risk pregnancies.

58. Dental Care

- a. Cermak shall ensure that inmates receive adequate dental care, and follow up, in accordance with generally accepted correctional standards of care. Such care should be provided in a timely manner, taking into consideration the acuity of the problem and the inmate's anticipated length of stay. Dental care shall not be limited to extractions.
- b. Cermak shall ensure that adequate dentist staffing and hours shall be provided to avoid unreasonable delays in dental care.

D. MENTAL HEALTH CARE

59. Assessment and Treatment

- a. Results of mental health intake screenings (see provision 45.c, "Intake Screening") will be reviewed by Qualified Mental Health Staff for appropriate disposition.
- b. Cermak shall develop and implement policies and procedures to assess inmates with mental illness; and to evaluate inmates' mental health needs. Said policies shall include definitions of emergent, urgent, and routine mental health needs, as well as timeframes for the provision of services for each category of mental health needs.
- c. Cermak shall ensure that any inmate who screens positively for mental illness or suicidal ideation during the intake screening process, through a mental health assessment, or who is otherwise referred for mental health services, receives a clinically appropriate mental health evaluation in a timely manner, based on emergent, urgent, and routine mental health needs, from a Qualified Mental

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currently receiving mental health care.

- j. When CCDOC alerts Cermak that an inmate is placed in lock down status for disciplinary reasons, a Qualified Mental Health Professional will review the disciplinary charges against inmate to determine the extent to which the charge was related to serious mental illness. The Qualified Mental Health Professional will make recommendations to CCDOC when an inmate's serious mental illness should be considered as a mitigating factor when punishment is imposed on an inmate with a serious mental illness and to minimize any deleterious effect of disciplinary measures on an inmate's mental health status.
- k. In the case of mentally ill inmates in segregation, CCDOC shall consult with Cermak to determine whether continued segregation is appropriate or whether the inmate would be appropriate for graduated alternative based on Cermak's assessment.
- l. Cermak shall ensure that mentally ill inmates in segregation receive timely and appropriate treatment, including completion and documentation of regular rounds in the segregation units at least once per week by adequately trained Qualified Mental Health Professionals or by Qualified Mental Health Staff with appropriate, on-site supervision by a Qualified Mental Health Professional, in order to assess the serious mental health needs of inmates in segregation. Inmates who are placed in segregation shall be evaluated within 24 hours of placement and thereafter regularly evaluated by a Qualified Mental Health Professional, or by a Qualified Mental Health Staff with appropriate, on-site supervision by a Qualified Mental Health Professional to determine the inmate's mental health status, which shall include an assessment of the potential effect of segregation on the inmate's mental health. During these regular evaluations, Cermak shall provide CCDOC with its recommendation regarding whether continued segregation is appropriate or whether the inmate would be appropriate for graduated alternative based on the assessment of the Qualified Mental Health Professional, or Qualified Mental Health Staff with appropriate, on-site supervision by a Qualified Mental Health Professional.
- m. Cermak shall maintain an updated log of inmates receiving mental health services, which shall include both those inmates who receive counseling and those who receive medication. Cermak shall create such a log within six months of the date this Agreed Order is executed. The log shall include each inmate's name, diagnosis or complaint, and next scheduled appointment. Each clinician shall have ready access to a current log listing any prescribed medication and dosages

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Health Professional, or Qualified Mental Health Staff with appropriate, on-site supervision by a Qualified Mental Health Professional. Such mental health evaluation shall include a recorded diagnosis section on Axis I, II, and III, using the DSM-IV-TR, or subsequent Diagnostic and Statistical Manual of the American Psychiatric Association. If a Qualified Mental Health Professional, or a Qualified Mental Health Staff with appropriate, on-site supervision by a Qualified Mental Health Professional, finds a serious mental illness, they shall refer the inmate for appropriate treatment. Cermak shall request and review available information regarding any diagnosis made by the inmate's community or hospital treatment provider, and shall account for the inmate's psychiatric history as a part of the assessment. Cermak shall adequately document the mental health evaluation in the inmate's medical record.

- d. Cermak shall ensure clinically appropriate and timely treatment for inmates whose assessments reveal serious mental illness or serious mental health needs, including timely and regularly scheduled visits with Qualified Mental Health Professionals or with Qualified Mental Health Staff, with appropriate, on-site supervision by a Qualified Mental Health Professional.
- e. Cermak shall ensure that treatment plans adequately address inmates' serious mental health needs and that the plans contain interventions specifically tailored to the inmates' diagnoses.
- f. Cermak shall provide 24-hour/7-day psychiatric coverage to meet inmates' serious mental health needs and ensure that psychiatrists see inmates in a timely manner.
- g. Cermak shall ensure timely provision of therapy, counseling, and other mental health programs for all inmates with serious mental illness. This includes adequate number of Qualified Mental Health Staff to provide treatment, and an adequate array of structured therapeutic programming. Cermak will develop and implement policies and procedures defining the various levels of care and identifying the space, staffing, and programming that are appropriate to each identified level of care.
- h. Inmates shall have access to appropriate infirmary psychiatric care when clinically appropriate.
- i. Cermak shall provide the designated CCDOC official responsible for inmate disciplinary hearings with a mental health caseload roster listing the inmates

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for inmates on psychotropic medications. In addition, inmate's medical records shall contain current and accurate information regarding any medication changes ordered in at least the past year.

- n. Cermak shall ensure that a psychiatrist, physician or licensed clinical psychologist conducts an in-person evaluation of an inmate prior to a seclusion or restraint order, or as soon thereafter as possible. An appropriately credentialed registered nurse may conduct the in-person evaluation of an inmate prior to a seclusion or restraint order that is limited to two hours in duration. Patients placed in medically-ordered seclusion or restraints shall be evaluated on an on-going basis for physical and mental deterioration. Seclusion or restraint orders should include sufficient criteria for release.
 - o. Cermak shall ensure an adequate array of crisis services to appropriately manage the psychiatric emergencies that occur among inmates. Crisis services shall not be limited to administrative segregation or observation status.
 - p. Cermak shall ensure that inmates have access to appropriate acute infirmary care, comparable to in-patient psychiatric care, within the Cermak facility.
60. Psychotherapeutic Medication Administration
- a. Cermak shall ensure that psychotropic medication orders are reviewed by a psychiatrist on a regular, timely basis for appropriateness or adjustment. Cermak shall ensure that changes to an inmate's psychotropic medications are clinically justified and documented in the inmate's medical record.
 - b. Cermak shall ensure timely implementation of physician orders for medication and laboratory tests. Cermak shall ensure that inmates who are being treated with psychotropic medications are seen regularly by a physician to monitor responses and potential reactions to those medications, including movement disorders, and provide treatment where appropriate.

E. SUICIDE PREVENTION MEASURES

61. Suicide Prevention Policy

- a. CCDOC shall participate with Cermak in a jointly established Suicide Prevention Committee charged with developing policies and procedures to ensure the appropriate management of suicidal inmates and with implementing and

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monitoring a suicide prevention program in accordance with generally accepted correctional standards of care.

- b. Cermak shall participate with CCDOC in a jointly established Suicide Prevention Committee charged with developing policies and procedures to ensure the appropriate management of suicidal inmates and with implementing and monitoring a suicide prevention program in accordance with generally accepted correctional standards of care.
 - c. The suicide prevention policy shall include, at a minimum, the following provisions:
 - (1) an operational description of the requirements for both pre-service and annual in-service training;
 - (2) intake screening/assessment;
 - (3) communication;
 - (4) housing;
 - (5) observation;
 - (6) intervention; and
 - (7) mortality and morbidity review.
62. Suicide Precautions
- a. CCDOC shall ensure that, where suicide prevention procedures established jointly with Cermak involve correctional personnel for constant direct supervision of actively suicidal inmates or close supervision of special needs inmates with lower levels of risk (e.g., 15 minute checks), correctional personnel perform and document their monitoring and checks.
 - b. Cermak shall ensure that, where suicide prevention procedures established jointly with CCDOC involve health care personnel for constant direct supervision of actively suicidal inmates or close supervision of special needs inmates with lower levels of risk (e.g., 15 minute checks), health care personnel perform and document their monitoring and checks.
 - c. CCDOC shall ensure that when an inmate is identified as suicidal, the inmate shall be searched and monitored with constant direct supervision until the inmate is transferred to appropriate Cermak staff.
 - d. Cermak shall develop and implement policies and procedures for suicide

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- b. Cermak shall ensure that suicide prevention policies established jointly with CCDOC include procedures to ensure the safe housing and supervision of inmates based on the acuity of their mental health needs, in accordance with generally accepted correctional standards.
67. DFM shall ensure that cells designated by CCDOC or Cermak for housing suicidal inmates shall be retrofitted to render them suicide-resistant (e.g., elimination of protrusive shower heads, unshielded lighting or electrical sockets). Inmates known to be suicidal shall not be housed in cells with exposed bars.
68. Suicide Prevention Training
- a. Cermak shall ensure that the Facility's suicide prevention curriculum for health care staff members, jointly established with CCDOC, addresses the following topics:
 - (1) the suicide prevention policy as revised consistent with this Agreed Order;
 - (2) why facility environments may contribute to suicidal behavior;
 - (3) potential predisposing factors to suicide;
 - (4) high risk suicide periods;
 - (5) warning signs and symptoms of suicidal behavior;
 - (6) observation techniques;
 - (7) searches of inmates who are placed on Suicide Precautions;
 - (8) case studies of recent suicides and serious suicide attempts (Serious suicide attempts are typically considered to be those that either were potentially life-threatening or that required medical attention);
 - (9) mock demonstrations regarding the proper response to a suicide attempt; and
 - (10) the proper use of emergency equipment, including suicide cut-down tools.

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precautions that will set forth the conditions of the watch, including but not limited to allowable clothing, property, and utensils, in accordance with generally accepted correctional standards of care. These conditions shall be altered only on the written instruction of a Qualified Mental Health Professional, except under emergency circumstances.

63. Cermak shall ensure that Qualified Mental Health Staff assess and interact with (not just observe) inmates on Suicide Precautions, and document the assessment and interaction on a daily basis.
64. Suicide Risk Assessments
 - a. Cermak shall ensure that any inmate showing signs and symptoms of suicide is assessed by a Qualified Mental Health Professional using an appropriate, formalized suicide risk assessment instrument within an appropriate time not to exceed 24 hours of the initiation of Suicide Precautions.
 - b. Cermak shall ensure that the risk assessment shall include the following:
 - (1) description of the antecedent events and precipitating factors;
 - (2) mental status examination;
 - (3) previous psychiatric and suicide risk history;
 - (4) level of lethality;
 - (5) current medication and diagnosis; and
 - (6) recommendations or treatment plan. Findings from the risk assessment shall be documented on both the assessment form and in the inmate's medical record.
65. Cermak shall ensure that inmates will only be removed from Suicide Precautions after a suicide risk assessment has been performed and approved by a Qualified Mental Health Professional, in consultation with a psychiatrist. A Qualified Mental Health Professional shall write appropriate discharge orders, including treatment recommendations and required mental health follow-up.
66. Suicide Prevention Policies
 - a. CCDOC shall ensure that suicide prevention policies established jointly with Cermak include procedures to ensure the safe housing and supervision of inmates based on the acuity of their mental health needs, in accordance with generally accepted correctional standards.

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- b. Within 24 months of the effective date of this Agreed Order, CCDOC shall train all CCDOC staff members who work with inmates on the Facility's suicide prevention program. Implementation of such training shall begin as soon as possible following the effective date of this Agreed Order. Staff shall demonstrate competency in the verbal and behavioral cues that indicate potential suicide, and how to respond appropriately. Initial and at least annual training shall be provided in accordance with generally accepted professional standards.
 - c. Within 12 months of the effective date of this Agreed Order, Cermak shall train all Cermak staff members who work with inmates on the Facility's suicide prevention program. Implementation of such training shall begin as soon as possible following the effective date of this Agreed Order. Staff shall demonstrate competency in the verbal and behavioral cues that indicate potential suicide, and how to respond appropriately. Initial and at least annual training shall be provided in accordance with generally accepted professional standards.
69. CCDOC shall ensure that security staff posts will be equipped, as appropriate, with readily available, safely secured, suicide cut-down tools.
70. Cermak shall document inmate suicide attempts at the Facility, as defined by the Suicide Prevention Committee's policies and procedure in accordance with generally accepted correctional standards, in the inmate's correctional record in CCDOC's new Jail Management System, in order to ensure that both correctional and health care staff will be aware at future intakes of past suicide attempts, if an inmate with a history of suicide attempts is admitted to the Facility again in the future. Cermak will begin to document this information within six months after execution of this Agreement.

F. FIRE AND LIFE SAFETY

71. CCDOC and DFM shall work together to develop and implement a comprehensive fire safety program and ensure compliance is appropriately documented. The initial fire safety plan shall be approved by the fire prevention authority having jurisdiction. The fire safety plan shall be reviewed thereafter by the appropriate fire prevention authority at least every two years, or within six months of any revisions to the plan, whichever is sooner. Fire safety and emergency procedures shall be standardized across divisions, to the extent possible given differences in physical plant and security levels.
72. CCDOC shall develop and implement an evacuation plan for inmates and staff and ensure that comprehensive fire drills are conducted every three months on each shift. CCDOC shall document these drills, including start and stop times and the number and

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location of inmates who were moved as part of the drills.

73. DFM shall ensure that the Facility has adequate fire and life safety equipment, including installation and maintenance of fire alarms and smoke detectors in all housing areas according to applicable fire codes. Maintenance and storage areas shall be equipped with sprinklers or fire resistant enclosures in accordance with City of Chicago Fire Code (13-76-010).
74. DFM shall ensure that all fire and life safety equipment is properly maintained and routinely inspected. DFM shall develop and implement a program related to the testing, maintenance and inspection of the Life Safety Equipment.
75. CCDOC shall continue to ensure that emergency keys are appropriately marked and identifiable by touch and consistently stored in a quickly accessible location, and that staff are adequately trained in use of the emergency keys.
76. CCDOC shall ensure that staff are able to manually unlock all doors (without use of the manual override in the event of an emergency in which the manual override is broken), including in the event of a power outage or smoke buildup where visual examination of keys is generally impossible. CCDOC shall conduct and document random audits to test staff proficiency in performing this task on all shifts, a minimum of three times per year. CCDOC shall conduct regular security inspections of all locking mechanisms. CCDOC shall communicate with DFM via the Work Order System regarding lock-related issues and maintenance.
77. DFM shall develop and implement an annual preventative maintenance program concerning security devices such as door locks, fire and smoke barrier doors, and manual unlocking mechanisms to ensure these devices function properly in the event of an emergency.
78. CCDOC shall implement competency-based testing for staff regarding fire and emergency procedures.
79. CCDOC shall promptly notify DFM of all electrical hazards, including maintenance and repair of electrical outlets, devices, and exposed electrical wires.
80. DFM shall promptly repair all known electrical hazards, including maintenance and repair of electrical outlets, devices, and exposed electrical wires and will document repairs by the Work Order System.

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- h. CCDOC shall ensure adequate pest control throughout the housing units, medical units, RCDC, RTU, and food storage areas. CCDOC shall maintain a contract for professional exterminator services for each division, food services areas, and the Cermak hospital. Services should provide for routine pest control spraying and additional spraying as needed.
- i. CCDOC shall ensure that all inmates have access to needed hygiene supplies.
- j. CCDOC shall develop and implement policies and procedures for cleaning, handling, storing, and disposing of biohazardous materials, in accordance with generally accepted correctional standards. CCDOC shall ensure that any inmate or staff utilized to clean a biohazardous area are properly trained in universal precautions, are outfitted with protective materials, and receive proper supervision when cleaning a biohazardous area.
- k. DFM shall develop a policy on hazardous materials storage, in accordance with generally accepted correctional standards, and insure that all DFM staff is properly trained on the procedure.
- l. CCDOC shall provide and ensure the use of cleaning chemicals that sufficiently destroy the pathogens and organisms in biohazard spills.
- m. CCDOC shall inspect and replace as often as needed all frayed and cracked mattresses. CCDOC shall destroy any mattress that cannot be sanitized sufficiently to kill any possible bacteria. CCDOC shall ensure that mattresses are properly sanitized between uses.
- n. CCDOC shall ensure adequate control and observation of all housing units, including distribution and collection of razors and cleaning supplies. All cleaning tools and hazardous chemicals shall be removed from housing areas after use.
- o. CCDOC shall ensure that Facility sanitarians receive training from a relevant state, national, or professional association with emphasis on assessment of environmental health practices and emerging environmental issues in correctional settings. Facility sanitarians should also have training on and access to testing equipment to ensure sanitary conditions.

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81. CCDOC shall ensure that combustibles are controlled and eliminate highly flammable materials throughout the facility and inmate living areas (e.g., inmates' use of paper bags as trash receptacles, ripped fire-retardant mattress covers, improvised cell light covers, blankets on cell floors, and improperly stored and labeled flammable liquids and other chemicals).
 82. CCDOC shall ensure that fire safety officers are trained in fire safety and have knowledge in basic housekeeping, emergency preparedness, basic applicable codes, and use of fire extinguishers and other emergency equipment.
- G. SANITATION AND ENVIRONMENTAL CONDITIONS**
83. Sanitation and Maintenance of Facilities
 - a. DFM shall maintain an adequate written staffing plan and sufficient staffing levels to provide for adequate maintenance of the Facility.
 - b. CCDOC shall revise and implement written housekeeping and sanitation plans to ensure the proper routine cleaning of housing, shower, and medical areas, in accordance with generally accepted correctional standards. Such policies should include oversight and supervision, including meaningful inspection processes and documentation, as well as establish routine cleaning requirements for toilets, showers, and housing units.
 - c. DFM shall implement a preventive maintenance plan to respond to routine and emergency maintenance needs, including ensuring that shower, toilet, and sink units are adequately maintained and installed.
 - d. CCDOC shall notify DFM, in a timely manner, of routine and emergency maintenance needs, including plumbing, lighting, and ventilation problems.
 - e. DFM shall ensure adequate ventilation throughout the Facility to ensure that inmates receive an adequate supply of air flow and reasonable levels of heating and cooling. DFM staff shall review and assess compliance with this requirement on a daily basis for automated systems and on an annual basis for non-automated systems.
 - f. CCDOC shall notify DFM of any visible obstructions to the ventilation system.
 - g. Cook County shall ensure adequate lighting in all inmate housing and work areas.

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84. Sanitary Laundry Procedures
 - a. CCDOC shall develop and implement policies and procedures for laundry procedures to protect inmates from risk of exposure to communicable disease, in accordance with generally accepted correctional standards. To limit the spread of communicable disease, CCDOC shall ensure that clothing and linens returned from off-site laundry facility are clean, sanitized, and dry.
 - b. CCDOC shall ensure that inmates are provided adequate clean clothing, underclothing and bedding, consistent with generally accepted correctional standards, and that the laundry exchange schedule provides consistent distribution and pickup service to all housing areas.
 - c. CCDOC shall train staff and educate inmates regarding laundry sanitation policies.
 - d. CCDOC shall ensure that laundry delivery procedures protect inmates from exposure to communicable diseases by preventing clean laundry from coming into contact with dirty laundry or contaminated surfaces.
 - e. CCDOC shall require inmates to provide all clothing and linens for laundering and prohibit inmates from washing and drying laundry outside the formal procedures.
85. Food Service
 - a. CCDOC shall ensure that food service at the Facility is operated in a safe and hygienic manner and that foods are served and maintained at safe temperatures.
 - b. CCDOC shall ensure that all food service staff, including inmate staff, must be trained in food service operations, safe food handling procedures, and appropriate sanitation.
 - c. CCDOC shall ensure that the Central Kitchen and Division XI kitchen are staffed with a sufficient number of appropriately supervised and trained personnel.
 - d. CCDOC shall ensure that dishes and utensils, food preparation and storage areas, and vehicles and containers used to transport food are appropriately cleaned and sanitized.

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- e. CCDOC shall check and record, on a regular basis, the temperatures in the refrigerators, coolers, walk-in-refrigerators, the dishwasher water, and all other kitchen equipment with temperature monitors to ensure proper maintenance of food service equipment.

H. QUALITY MANAGEMENT AND PERFORMANCE MEASUREMENT

86. Quality Management and Performance Measurement

- a. Defendants shall each develop and implement written quality management policies and procedures, in accordance with generally accepted correctional standards, to regularly assess, identify, and take all reasonable measures to assure compliance with each of the provisions of this Agreed Order applicable to that Defendant.
- b. Defendants shall each develop and implement policies to address and correct deficiencies that are uncovered during the course of quality management activities, including monitoring corrective actions over time to ensure sustained resolution, for each of the provisions of this Agreed Order applicable to that Defendant.
- c. CCDOC shall participate with Cermak and DFM in a jointly established Health Care Quality Improvement Committee, to be charged with developing and implementing a joint quality improvement program. CCDOC shall contribute the time and effort of CCDOC staff members who, by virtue of their authority, current responsibilities, and/or past experience, can provide this committee with needed correctional representation.
- d. Cermak shall participate with CCDOC and DFM in a jointly established Health Care Quality Improvement Committee, to be charged with developing and implementing a joint quality improvement program. Cermak will work with CCDOC and DFM to identify those CCDOC and DFM staff members who, by virtue of their authority, current responsibilities, and/or past experience, can provide this committee with needed correctional representation. Quality management programs related to medical and mental health care will utilize performance measurements to assess quality of care and timely access to care with quantitative and qualitative data analysis and trending over time.
- e. DFM shall participate with CCDOC and Cermak in a jointly established Health Care Quality Improvement Committee, to be charged with developing and

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limitations, listed below, as the Monitors. The parties reserve the right to object for good cause to members of the Monitoring Teams.

- D. Monitor Access: The Monitors shall have full and complete access to the Facility, all Facility records, inmate medical records, staff, and inmates. Defendants shall direct all employees to cooperate fully with the Monitors. All non-public information obtained by the Monitors shall be maintained in a confidential manner.
- E. Monitor Ex Parte Communications: The Monitors shall be permitted to initiate and receive ex parte communications with all parties.
- F. Limitations on Public Disclosures by Monitors: Except as required or authorized by the terms of this Agreed Order or the parties acting together, the Monitors shall not: make any public statements (at a conference or otherwise) or issue findings with regard to any act or omission of Defendants or their agents, representatives or employees, or disclose nonpublic information provided to the Monitors pursuant to this Agreed Order. Any press statement made by the Monitors regarding his or her employment must first be approved in writing by all parties. The Monitors shall not testify in any other litigation or proceeding with regard to any act or omission of Defendants or any of their agents, representatives, or employees related to this Agreed Order, nor testify regarding any matter or subject that he or she may have learned as a result of his or her performance under this Agreed Order. Reports issued by the Monitors shall not be admissible against Defendants in any proceeding other than a proceeding related to the enforcement of this Agreed Order by Defendants or DOJ. Unless such conflict is waived by the parties, the Monitors shall not accept employment or provide consulting services that would present a conflict of interest with the Monitors' responsibilities under this Agreed Order, including being retained (on a paid or unpaid basis) by any current or future litigant or claimant, or such litigant's or claimant's attorney, in connection with a claim or suit against Defendants, their departments, officers, agents or employees. The Monitors are not a State/County or local agency or an agent thereof, and accordingly the records maintained by the Monitors shall not be deemed public records subject to public inspection. Neither the Monitors nor any person or entity hired or otherwise retained by the Monitors to assist in furthering any provision of this Agreed Order shall be liable for any claim, lawsuit or demand arising out of the Monitors' performance pursuant to this Agreed Order. This provision does not apply to any proceeding before a court related to performance of contracts or subcontracts for monitoring this Agreed Order.
- G. Monitors' Reports: The Monitors shall file with the Court and provide the parties with reports describing the steps taken by Defendants to implement this Agreed Order and evaluate the extent to which Defendants have complied with each substantive provision

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implementing a joint quality improvement program. DFM shall contribute the time and effort of DFM staff members who, by virtue of their authority, current responsibilities, and/or past experience, can provide this committee with needed correctional representation.

IV. MONITORING

- A. Monitor Selection: The parties have jointly selected Ms. Susan McCampbell to serve as the monitor for the CCDOC corrections provisions of the Agreed Order ("Corrections Monitor"). The parties have jointly selected Dr. Ronald Shansky to serve as the monitor for the medical provisions of this Agreed Order ("Medical Monitor"). The parties have jointly selected Dr. Jeffrey Metzner to serve as the monitor for the mental health provisions of this Agreed Order ("Mental Health Monitor"). The parties have jointly selected Mr. Harry Grenawitzke to serve as monitor for the physical plant (§§ III.F and III.G), DFM, and Capital Planning provisions of this Agreed Order ("Physical Plant Monitor"). With provisions that involve overlap between two disciplines, such as § III.B, Elements Common to Medical and Mental Health, the relevant Monitors shall coordinate in order to determine the proper manner for the necessary compliance assessment. Should any of the monitor positions become vacant and the parties cannot agree on a replacement, the parties shall recommend candidates to the Court, and the Court will appoint the Monitor. Neither party, nor any employee or agent of either party, shall have any supervisory authority over the Monitors' activities, reports, findings, or recommendations. The cost for the Monitors' fees and expenses shall be borne by Defendants. The selection of the Monitors shall be conducted solely pursuant to the procedures set forth in this Agreed Order, and will not be governed by any formal or legal procurement requirements. The Monitors may be terminated only for good cause, unrelated to the Monitors' findings or recommendations, and only with prior notice to, and approval of, the parties or by Court order. Should all the parties agree that a Monitor is not fulfilling his or her duties in accordance with this Agreed Order, the parties may petition the Court for the Monitor's immediate removal and replacement. One party may unilaterally petition the Court for the Monitor's removal for good cause, and the other parties will have the opportunity to respond to the petition.
- B. Monitor Qualifications: The Monitors shall have appropriate experience and education or training related to the subject areas covered in this Agreed Order.
- C. Monitoring Team: The Monitors may hire or consult with such additional qualified staff as necessary to fulfill the duties required by the Agreed Order ("Monitoring Teams"). The Monitors are ultimately responsible for the findings regarding compliance. The Monitoring Teams will be subject to all the same access rights and confidentiality

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of the Agreed Order. The Monitors shall issue an initial report four months after the effective date of this Agreed Order, and then every six months thereafter, unless both parties otherwise agree in writing. The reports shall be provided to the parties in draft form for comment at least two weeks prior to their issuance. These reports shall be written with due regard for the privacy interests of individual inmates and staff and the interest of Defendants in protecting against disclosure of non-public information.

- H. Compliance Assessments: In each Monitors' report, the Monitors shall evaluate the status of compliance for each relevant provision of the Agreed Order using the following standards: (1) Substantial Compliance; (2) Partial Compliance, and (3) Non-compliance. In order to assess compliance, the Monitors shall review a sufficient number of pertinent documents to accurately assess current conditions; interview all pertinent staff; and interview a sufficient number of inmates to accurately assess current conditions. The Monitors shall be responsible for independently verifying representations from Defendants regarding progress toward compliance, examining supporting documentation where applicable. Each Monitor's report shall describe the steps taken to analyze conditions and assess compliance, including documents reviewed and individuals interviewed, and the factual basis for each of the Monitor's findings.
- I. Budget: The parties acknowledge that compliance with certain provisions of this Agreed Order will require additional expenditure of funds. The parties also acknowledge that the budget for CCDOC, Cermak, and DFM is subject to approval by the Cook County Board of Commissioners.
- J. Monitors' Budget: Defendants shall provide the Monitors with a budget sufficient to allow the Monitors to carry out the responsibilities described in this Agreed Order. The Monitors shall pay the members of the Monitoring Teams out of this budget. Prior to selection for the Monitors' positions, each Monitor candidate proposed a reasonable, estimated budget sufficient to cover the responsibilities described in this Agreed Order.
- K. Technical Assistance by the Monitors: The Monitors shall provide Defendants with technical assistance as requested by Defendants.

V. REPORTING REQUIREMENTS AND RIGHT OF ACCESS

- A. Defendants shall each submit semiannual compliance reports to DOJ and the Monitors, the first of which shall be filed within six months of the date of this Agreed Order. Thereafter, the semiannual reports shall be filed 15 days after the termination of each six-month period thereafter until the Agreed Order is terminated.

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- B. Each compliance report shall describe the actions Defendants have taken during the reporting period to implement this Agreed Order and shall make specific reference to the Agreed Order provisions being implemented.
- C. Defendants shall maintain sufficient records to document that the requirements of this Agreed Order are being properly implemented and shall make such records available to DOJ at reasonable times for inspection and copying. In addition, Defendants shall maintain and submit upon request records or other documents to verify that they have taken such actions as described in their compliance reports (e.g., census summaries, policies, procedures, protocols, training materials, and incident reports) and will also provide all documents reasonably requested by DOJ.
- D. DOJ and its attorneys, consultants, and agents shall have unrestricted access to the Facility, inmates, staff (including CCDOC, DFM, and Cermak staff, or staff from any other outside medical or mental health services provider), and documents as reasonably necessary to address issues affected by this Agreed Order.
- E. Within 30 days of receipt of written questions from DOJ concerning Defendants' compliance with the requirements of this Agreed Order, Defendants shall provide DOJ with written answers and any requested documents.
- F. CCDOC and Cook County shall each appoint a compliance coordinator to oversee compliance with this Agreed Order and to serve as a point of contact.
- G. Whenever any Defendant invokes exigent circumstances to take action that departs from what would otherwise be the requirements of this Agreed Order, that Defendant shall, immediately upon taking such action, notify the Monitors and DOJ of the exigent circumstances relied upon, the corresponding action taken, what it believes will be the duration of such circumstances and such action, and the steps it is taking to attempt to limit the duration of such action as to short a term as practicable.

VI. ENFORCEMENT

- A. During the period that the Agreed Order is in force, if any of the Monitors or DOJ determines that a Defendant has not made material progress toward substantial compliance with a significant obligation under the Agreed Order, and such failure constitutes a violation of inmates' constitutional rights, DOJ may, but is not required to, seek enforcement of the Agreed Order in Court.
- B. Prior to taking judicial action to enforce the Agreed Order, DOJ shall give Defendants

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- that substantial compliance for all subcomponents of each provision in the full substantive section is achieved and maintained for the requisite 18-month period. In addition, if the responsible Defendant has substantially complied with all of the provisions assigned to it in a full substantive section of the Agreed Order (for example, CCDOC could substantially comply with all of the provisions specifically assigned to it in § III.C: Medical Care), and has maintained Substantial Compliance with all of those provisions for at least 18 months, those provisions may conclude independently of the rest of the Agreed Order. The burden shall be on the Defendant(s) to demonstrate this level of compliance. Non-compliance with mere technicalities, or temporary failure to comply during a period of otherwise sustained compliance will not constitute failure to maintain Substantial Compliance. At the same time, temporary compliance during a period of sustained Non-compliance shall not constitute Substantial Compliance.
- D. The parties agree that every two years following the effective date of this Agreed Order, the Court shall conduct a status conference regarding the status of Defendants' compliance with this Agreed Order.
- E. Failure by any party to enforce this entire Agreed Order or any provision thereof with respect to any deadline or any other provision herein shall not be construed as a waiver of its right to enforce other deadlines or provisions of this Agreed Order.
- F. If any unforeseen circumstance occurs that causes a failure to timely carry-out any requirements of this Agreed Order, Defendants shall notify DOJ in writing within 20 calendar days after Defendants become aware of the unforeseen circumstance and its impact on the Defendant's ability to perform under the Agreed Order. The notice shall describe the cause of the failure to perform and the measures taken to prevent or minimize the failure. Defendants shall implement all reasonable measures to avoid or minimize any such failure.
- G. This Agreed Order shall constitute the entire integrated Agreed Order of the parties. With the exception of DOJ's findings letter, referenced in provision I.4 herein, and any DOJ technical assistance recommendations, no prior or contemporaneous communications, oral or written, will be relevant or admissible for purposes of determining the meaning of any provisions herein in this litigation or in any other proceeding.
- H. Nothing herein shall be deemed, construed, or interpreted as an admission of liability by Defendants. Neither this Agreed Order, nor any part thereof, shall be admissible against Defendants except in a proceeding involving the parties to this Agreed Order. Furthermore, by entering into this Agreed Order, Defendants do not waive the right to

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written notice of its intent to seek enforcement of the Agreed Order, and the parties shall engage in good-faith discussions to resolve the dispute.

- C. The relevant Defendant(s) shall have 30 days from the date of such notice to cure the failure (or such additional time as is reasonable due to the nature of the issue and agreed upon by the parties) and provide DOJ with sufficient proof of its cure. At the end of the 30-day period (or such additional time as is reasonable due to the nature of the issue and agreed upon by the parties), in the event that DOJ determines that the failure has not been cured, DOJ may seek judicial action without further notice. DOJ commits to work in good faith with Defendants to avoid enforcement actions.
- D. The terms of this Agreed Order are not subject to state or federal court enforcement by anyone other than DOJ.
- E. In case of an emergency posing an immediate threat to the health or safety of an inmate or staff member at the Facility, however, DOJ may omit the notice and cure requirements herein before seeking enforcement of the Agreed Order.

VII. CONSTRUCTION, IMPLEMENTATION AND TERMINATION

- A. Defendants shall implement all reforms within their areas of responsibility, as designated within the provisions of this Agreed Order, that are necessary to effectuate this Agreed Order. The implementation of this Agreed Order will begin immediately upon the effective date.
- B. Except where otherwise agreed to under a specific provision of this Agreed Order, Defendants shall implement of all provisions of this Agreed Order within 180 days of the entry of this Agreed Order.
- C. This Agreed Order shall terminate when Defendants have achieved substantial compliance with each of the provisions of the Agreed Order and have maintained Substantial Compliance with the Agreed Order for a period of 18 months. The parties anticipate that Defendants will have achieved substantial compliance with all provisions of the Agreed Order within four years of the Agreed Order's Effective Date and sustained compliance with each such provision for at least 18 months. The parties agree that a full substantive section of the Agreed Order (§ III.A: Protection from Harm, § III.B: Health Care Services, § III.C: Medical Care, § III.D: Mental Health Care, § III.E: Suicide Prevention Measures, § III.F: Fire and Life Safety, § III.G: Sanitation and Environmental Conditions, or § III.H: Quality Management and Performance Measurement) may conclude independently of the rest of the Agreed Order in the event

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contest the July 11, 2008 findings letter or any of the conclusions set forth therein.

- I. The Agreed Order shall be applicable to, and binding upon, all parties, their officers, agents, employees, assigns, and their successors in office.
- J. Each party shall bear the cost of its fees and expenses incurred in connection with this cause.
- K. In the event that any provision of this Agreed Order is declared invalid for any reason by a court of competent jurisdiction, said finding shall not affect the remaining provisions of this Agreed Order.

VIII. STIPULATION PURSUANT TO THE PRISON LITIGATION REFORM ACT, 18 U.S.C. § 3626

- A. For the purposes of this Agreed Order only and in order to settle this matter, the parties stipulate that this Agreed Order complies in all respects with the provisions of 18 U.S.C. § 3626(a). The parties further stipulate and agree that the prospective relief in this Agreed Order is narrowly drawn, extends no further than necessary to correct the violations of federal rights alleged by the United States, is the least intrusive means necessary to correct these violations, and will not have an adverse impact on public safety or the operation of a criminal justice system. Accordingly, the parties agree and represent that the Agreed Order complies in all respects with the provisions of 18 U.S.C. § 3626(a).
- B. The issue of liability has not been litigated.
- C. This Agreed Order is not intended to have any preclusive effect except between the parties. Should the issue of the preclusive effect of this Agreed Order be raised, the parties agree to certify that this Agreed Order was intended to have no such preclusive effect.

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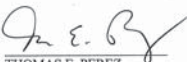
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FOR THE DEFENDANTS COOK COUNTY, IL
AND THE COOK COUNTY BOARD OF
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SO ORDERED this ____ day of ____, 2010:

UNITED STATES DISTRICT COURT JUDGE
 NORTHERN DISTRICT OF ILLINOIS

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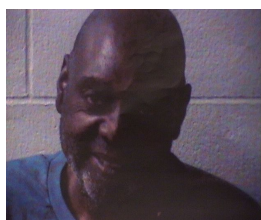


Individual Inmate Report

Booking #	Inmate Full Name	Date of Birth	Race	Gender	Height	Weight
2014-0910003	Roberts, James		BK	Male	606	212
Booked Date	Housing Location	Visiting Day / Time				Bail Amount
09/10/2014	DIV08-4E-10-X2	Sunday	3:30p - 8:30p			*NO BOND*
Charges						
720 ILCS 5/9-1(a)(1) MURDER/INTENT TO KILL/INJURE						
Next Court Date		Court House Location				
04/18/2017		Criminal Courts Building Criminal Courts Building				

Good news!!! You can now expedite the bonding process by emailing ccso.bonds@cookcountyiil.gov before you come to the CCDOC. When we receive the email, we will begin getting the release paperwork together, which could cut down on your wait time. Your email must include the following:

- Your Full Name
- Your contact information (Phone Number and / or email address)
- Inmate's Full Name (from the inmate report above)
- Booking Number (from the inmate report above)
- Inmate Date of Birth (from the inmate report above)



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Exhibit 4

Subpt. 101-19.6, App. A

41 CFR Ch. 101 (7-1-97 Edition)

APPENDIX A TO SUBPART 101-19.6—UNIFORM FEDERAL ACCESSIBILITY STANDARDS

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1. PURPOSE .

This document sets standards for facility accessibility by physically handicapped persons for Federal and federally-funded facilities. These standards are to be applied during the design, construction, and alteration of buildings and facilities to the extent required by the Architectural Barriers Act of 1968, as amended.

The technical provisions of these standards are the same as those of the American National Standard Institute's document A117.1-1980, except as noted in this text and on figures by italics.

2. GENERAL .

2.1 Authority. *These standards were jointly developed by the General Services Administration, the Department of Housing and Urban Development, the Department of Defense, and the United States Postal Service, under the authority of sections 2, 3, 4, and 4a, respectively, of the Architectural Barriers Act of 1968, as amended, Pub. L. No. 90-480, 42 U.S.C. 4151-4157.*

2.2 Provisions For Adults. *The specifications in these standards are based upon adult dimensions and anthropometrics.*

3. MISCELLANEOUS INSTRUCTIONS AND DEFINITIONS.

3.1 Graphic Conventions. Graphic conventions are shown in Table 1. Dimensions that are not marked "minimum" or "maximum" are absolute, unless otherwise indicated in the text or captions.

3.2 Dimensional Tolerances. All dimensions are subject to conventional building industry tolerances for field conditions.

3.3 Notes. The text of these standards does not contain notes or footnotes. Additional information, explanations, and advisory materials are located in the Appendix. Paragraphs marked with an asterisk have related, nonmandatory material in the Appendix. In the Appendix, the corresponding paragraph numbers are preceded by an A.

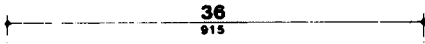

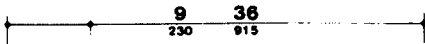





3.4 General Terminology.

comply with. Meet one or more specifications of this standard.

if, if...then. Denotes a specification that applies only when the conditions described are present.

may. Denotes an option or alternative.

Table 1
Graphic Conventions

Convention	Description
	Typical dimension line showing U.S. customary units (in inches) above the line and SI units (in millimeters) below
	Dimensions for short distances indicated on extended line
	Dimension line showing alternate dimensions required
	Direction of approach
	Maximum
	Minimum
	Boundary of clear floor area
	Centerline

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3.5 Definitions

shall. Denotes a mandatory specification or requirement.

should. Denotes an advisory specification or recommendation.

3.5 Definitions. The following terms shall, for the purpose of these standards, have the meaning indicated in this section.

Access Aisle. An accessible pedestrian space between elements, such as parking spaces, seating, and desks, that provides clearances appropriate for use of the elements.

Accessible. Describes a site, building, facility, or portion thereof that complies with these standards and that can be approached, entered, and used by physically disabled people.

Accessible Element. An element specified by these standards (for example, telephone, controls, and the like).

Accessible Route. A continuous unobstructed path connecting all accessible elements and spaces in a building or facility. Interior accessible routes may include corridors, floors, ramps, elevators, lifts, and clear floor space at fixtures. Exterior accessible routes may include parking access aisles, curb ramps, walks, ramps, and lifts.

Accessible Space. Space that complies with these standards.

Adaptability. The ability of certain building spaces and elements, such as kitchen counters, sinks, and grab bars, to be added or altered so as to accommodate the needs of either disabled or nondisabled persons, or to accommodate the needs of persons with different types or degrees of disability.

Addition. An expansion, extension, or increase in the gross floor area of a building or facility.

Administrative Authority. A governmental agency that adopts or enforces regulations and standards for the design, construction, or alteration of buildings and facilities.

Alteration. As applied to a building or structure, means a change or rearrangement in the structural parts or elements, or in the means of egress or in moving from one location or position to another. It does not include normal maintenance, repair, reroofing, interior decoration, or changes to mechanical and electrical systems.

Assembly Area. A room or space accommodating fifty or more individuals for religious, recreational, educational, political, social, or amusement purposes, or for the consumption of food and drink, including all connected rooms or spaces with a common means of egress and ingress. Such areas as conference rooms would have to be accessible in accordance with other parts of this standard but would not have to meet all of the criteria associated with assembly areas.

Automatic Door. A door equipped with a power-operated mechanism and controls that open and close the door automatically upon receipt of a momentary actuating signal. The switch that begins the automatic cycle may be a photoelectric device, floor mat, or manual switch mounted on or near the door itself (see power-assisted door).

Circulation Path. An exterior or interior way of passage from one place to another for pedestrians, including, but not limited to, walks, hallways, courtyards, stairways, and stair landings.

Clear. Unobstructed.

Common Use. Refers to those interior and exterior rooms, spaces, or elements that are made available for the use of a restricted group of people (for example, residents of an apartment building, the occupants of an office building, or the guests of such residents or occupants).

Cross Slope. The slope that is perpendicular to the direction of travel (see running slope).

Curb Ramp. A short ramp cutting through a curb or built up to it.

Dwelling Unit. A single unit of residence which provides a kitchen or food preparation area, in addition to rooms and spaces for living, bathing, sleeping, and the like. A single family home is a dwelling unit, and dwelling units are to be found in such housing types as townhouses and apartment buildings.

Egress, Means of. An accessible route of exit that meets all applicable code specifications of the regulatory building agency having jurisdiction over the building or facility.

Element. An architectural or mechanical component of a building, facility, space, or site, e.g., telephone, curb ramp, door, drinking fountain, seating, water closet.

Entrance. Any access point to a building or portion of building or facility used for the purpose of entering. An entrance includes the approach walk, the vertical access leading to the entrance platform, the entrance platform itself, vestibules if provided, the entry door(s) or gate(s), and the hardware of the entry door(s) or gate(s). The principal entrance of a building or facility is the main door through which most people enter.

Essential Features. Those elements and spaces that make a building or facility usable by, or serve the needs of, its occupants or users. Essential features include but are not limited to entrances, toilet rooms, and accessible routes. Essential features do not include those spaces that house the major activities for which the building or facility is intended, such as classrooms and offices.

Extraordinary Repair. The replacement or renewal of any element of an existing building or facility for purposes other than normal maintenance.

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3.5 Definitions

Facility. All or any portion of a building, structure, or area, including the site on which such building, structure or area is located, wherein specific services are provided or activities performed.

Full and Fair Cash Value. Full and fair cash value is calculated for the estimated date on which work will commence on a project and means:

- (1) The assessed valuation of a building or facility as recorded in the assessor's office of the municipality and as equalized at one hundred percent (100%) valuation; or
- (2) The replacement cost; or
- (3) The fair market value.

Functional Spaces. The rooms and spaces in a building or facility that house the major activities for which the building or facility is intended.

Housing. A building, facility, or portion thereof, excluding inpatient health care facilities, that contains one or more dwelling units or sleeping accommodations. Housing may include, but is not limited to, one and two-family dwellings, apartments, group homes, hotels, motels, dormitories, and mobile homes.

Marked Crossing. A crosswalk or other identified path intended for pedestrian use in crossing a vehicular way.

Multifamily Dwelling. Any building containing more than two dwelling units.

Operable Part. A part of a piece of equipment or appliance used to insert or withdraw objects, or to activate, deactivate, or adjust the equipment or appliance (for example, coin slot, pushbutton, handle).

Physically Handicapped. An individual who has a physical impairment, including impaired sensory, manual, or speaking abilities, which results in a functional limitation in access to and use of a building or facility.

Power-assisted Door. A door used for human passage with a mechanism that helps to open the door, or relieve the opening resistance of a door, upon the activation of a switch or a continued force applied to the door itself. If the switch or door is released, such doors immediately begin to close or close completely within 3 to 30 seconds (see automatic door).

Public Use. Describes interior or exterior rooms or spaces that are made available to the general public. Public use may be provided at a building or facility that is privately or publicly owned.

Ramp. A walking surface in an accessible space that has a running slope greater than 1:20.

Running Slope. The slope that is parallel to the direction of travel (see cross slope).

Service Entrance. An entrance intended primarily for delivery of services.

Signage. Verbal, symbolic, tactile, and pictorial information.

Site. A parcel of land bounded by a property line or a designated portion of a public right-of-way.

Site Improvement. Landscaping, paving for pedestrian and vehicular ways, outdoor lighting, recreational facilities, and the like, added to a site.

Sleeping Accommodations. Rooms in which people sleep, for example, dormitory and hotel or motel guest rooms.

Space. A definable area, e.g., toilet room, hall, assembly area, entrance, storage room, alcove, courtyard, or lobby.

Structural Impracticability. Changes having little likelihood of being accomplished without removing or altering a load-bearing structural member and/or incurring an increased cost of 50 percent or more of the value of the element of the building or facility involved.

Tactile. Describes an object that can be perceived using the sense of touch.

Tactile Warning. A standardized surface texture applied to or built into walking surfaces or other elements to warn visually impaired people of hazards in the path of travel.

Temporary. Applies to facilities that are not of permanent construction but are extensively used or essential for public use for a given (short) period of time, for example, temporary classrooms or classroom buildings at schools and colleges, or facilities around a major construction site to make passage accessible, usable, and safe for everybody. Structures directly associated with the actual processes of major construction, such as porta potties, scaffolding, bridging, trailers, and the like, are not included. Temporary as applied to elements means installed for less than 6 months and not required for safety reasons.

Vehicular Way. A route intended for vehicular traffic, such as a street, driveway, or parking lot.

Walk. An exterior pathway with a prepared surface intended for pedestrian use, including general pedestrian areas such as plazas and courts.

4. ACCESSIBLE ELEMENTS AND SPACES: SCOPE AND TECHNICAL REQUIREMENTS.

4.1 Minimum Requirements.

4.1.1 Accessible Sites and Exterior Facilities:
New Construction. An accessible site shall meet the following minimum requirements:

- (1) At least one accessible route complying with 4.3 shall be provided within the boundary of the site from public transportation stops, accessible parking

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4.1.2 Accessible Buildings: New Construction

spaces, passenger loading zones if provided, and public streets or sidewalks to an accessible building entrance.

(2) At least one accessible route complying with 4.3 shall connect accessible buildings, facilities, elements, and spaces that are on the same site.

(3) All objects that protrude from surfaces or posts into circulation paths shall comply with 4.4.

(4) Ground surfaces along accessible routes and in accessible spaces shall comply with 4.5.

(5) (a) If parking spaces are provided for employees or visitors, or both, then accessible spaces, complying with 4.6, shall be provided in each such parking area in conformance with the following table:

Total Parking in Lot	Required Minimum Number of Accessible Spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	••
1001 and over	••

* 2 percent of total.

** 20 plus 1 for each 100 over 1000.

EXCEPTION: The total number of accessible parking spaces may be distributed among parking lots, if, greater accessibility is achieved.

EXCEPTION: This does not apply to parking provided for official government vehicles owned or leased by the government and used exclusively for government purposes.

(b) If passenger loading zones are provided, then at least one passenger loading zone shall comply with 4.6.5.

(c) Parking spaces for side lift vans are accessible parking spaces and may be used to meet the requirements of this paragraph.

(d) Parking spaces at accessible housing complying with 4.6 shall be provided in accordance with the following:

(i) Where parking is provided for all residents, one accessible parking space shall be provided for each accessible dwelling unit; and

(ii) Where parking is provided for only a portion of the residents, an accessible parking space shall be provided on request of the occupant of an accessible dwelling unit;

(iii) Where parking is provided for visitors, 2 percent of the spaces, or at least one, shall be accessible.

(e) Parking spaces at health care facilities complying with 4.6 shall be provided in accordance with the following:

(i) General health care facilities, employee and visitor parking: Comply with Table 4.1.1(5)(a);

(ii) Outpatient facilities: 10 percent of the total number of parking spaces provided;

(iii) Spinal cord injury facilities, employee and visitor parking: 20 percent of total parking spaces provided.

(6) If toilet facilities are provided on a site, then each such public or common use toilet facility shall comply with 4.22. If bathing facilities are provided on a site, then each such public or common use bathing facility shall comply with 4.23.

EXCEPTION: These provisions are not mandatory for single user portable toilet or bathing units clustered at a single location; however, at least one toilet unit complying with 4.22 or one bathing unit complying with 4.23 should be installed at each location whenever standard units are provided.

(7) All signs shall comply with 4.30.1, 4.30.2 and 4.30.3. Elements and spaces of accessible facilities shall comply with 4.30.5 and shall be identified by the International Symbol of Accessibility are:

(a) Parking spaces designated as reserved for physically handicapped people;

(b) passenger loading zones;

(c) accessible entrances;

(d) accessible toilet and bathing facilities.

4.1.2 Accessible Buildings: New Construction.

Accessible buildings and facilities shall meet the following minimum requirements:

(1) At least one accessible route complying with 4.3 shall connect accessible building or facility entrances with all accessible spaces and elements within the building or facility.

(2) All objects that overhang circulation paths shall comply with 4.4.

(3) Ground and floor surfaces along accessible routes and in accessible rooms and spaces shall comply with 4.5.

(4) Stairs connecting levels that are not connected by an elevator shall comply with 4.9.

(5) One passenger elevator complying with 4.10 shall serve each level in all multi-story buildings and facilities. If more than one elevator is provided, each elevator shall comply with 4.10.

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4.1.2 Accessible Buildings: New Construction

EXCEPTION: Elevator pits, elevator penthouses, mechanical rooms, piping or equipment catwalks are excepted from this requirement.

EXCEPTION: Accessible ramps complying with 4.8 or, if no other alternative is feasible, accessible platform lifts complying with 4.11 may be used in lieu of an elevator.

(6) Windows. (Reserved).

(7) Doors:

(a) At each accessible entrance to a building or facility, at least one door shall comply with 4.13.

(b) Within a building or facility, at least one door at each accessible space shall comply with 4.13.

(c) Each door that is an element of an accessible route shall comply with 4.13.

(d) Each door required by 4.3.10, Egress, shall comply with 4.13.

EXCEPTION: In multiple-story buildings and facilities where at-grade egress from each floor is impossible, either of the following is permitted: the provision within each story of approved fire and smoke partitions that create horizontal exits, or, the provision within each floor of areas of refuge approved by agencies having authority for safety.

(8) At least one principal entrance at each grade floor level to a building or facility shall comply with 4.14. Entrances. When a building or facility has entrances which normally serve any of the following functions: transportation facilities, passenger loading zones, accessible parking facilities, taxi stands, public streets and sidewalks, or accessible interior vertical access, then at least one of the entrances serving each such function shall comply with 4.14. Entrances. Because entrances also serve as emergency exits, whose proximity to all parts of buildings and facilities is essential, it is preferable that all or most exits be accessible.

(9) If drinking fountains or water coolers are provided, approximately 50 percent of those provided on each floor shall comply with 4.15 and shall be on an accessible route. If only one drinking fountain or water cooler is provided on any floor, it shall comply with 4.15.

(10) If toilet facilities are provided, then each public and common use toilet room shall comply with 4.22. Other toilet rooms shall be adaptable. If bathing facilities are provided, then each public and common use bathroom shall comply with 4.23. Accessible toilet rooms and bathing facilities shall be on an accessible route.

(11) If storage facilities such as cabinets, shelves, closets, and drawers are provided in accessible spaces, at least one of each type provided shall contain storage space complying with 4.25. Additional storage may be provided outside of the dimensions shown in Fig. 38.

(12) Controls and operating mechanisms in accessible spaces, along accessible routes, or as parts of accessible elements (for example, light switches and dispenser controls) shall comply with 4.27.

(13) If emergency warning systems are provided, then they shall include both audible alarms complying with 4.28.2 and visual alarms complying with 4.28.3. In facilities with sleeping accommodations, the sleeping accommodations shall have an alarm system complying with 4.28.4. Emergency warning systems in health care facilities may be modified to suit standard health care alarm design practice.

(14) Tactile warnings shall be provided at hazardous conditions as specified in 4.29.3.

(15) If signs are provided, they shall comply with 4.30.1, 4.30.2 and 4.30.3. In addition, permanent signage that identifies rooms and spaces shall also comply with 4.30.4 and 4.30.6.

EXCEPTION: The provisions of 4.30.4 are not mandatory for temporary information on room and space signage, such as current occupant's name, provided the permanent room or space identification complies with 4.30.4.

(16) Public telephones:

(a) If public telephones are provided, then accessible public telephones shall comply with 4.31, Telephones, and the following table:

Number of public telephones provided on each floor:	Number of telephones required to be accessible.*
1 or more single unit installations	1 per floor
1 bank**	1 per floor
2 or more banks**	1 per bank. Accessible unit may be installed as a single unit in proximity (either visible or with signage) to the bank. At least one public telephone per floor shall meet the requirements for a forward reach telephone.***

*Additional public telephones may be installed at any height. Unless otherwise specified, accessible telephones may be either forward or side reach telephones.

**A bank consists of two or more adjacent public telephones, often installed as a unit.

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***EXCEPTION: For exterior installations only, if dial tone first service is not available, then a side reach telephone may be installed instead of the required forward reach telephone (i.e., one telephone in proximity to each bank shall comply with 4.31).

(b) At least one of the public telephones complying with 4.31, Telephones, shall be equipped with a volume control. The installation of additional volume controls is encouraged, and these may be installed on any public telephone provided.

(17) If fixed or built-in seating, tables, or work surfaces are provided in accessible spaces, at least 5 percent, but always at least one, of seating spaces, tables, or work surfaces shall comply with 4.32.

(18) Assembly areas:

(a) If places of assembly are provided, they shall comply with the following table:

Capacity of Seating & Assembly Areas	Number of Required Wheelchair Locations
50 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	*
over 1,000	**

* 2 percent of total.

** 20 plus 1 for each 100 over 1,000.

(b) Assembly areas with audio-amplification systems shall have a listening system complying with 4.33 to assist a reasonable number of people, but no fewer than two, with severe hearing loss. For assembly areas without amplification systems and for spaces used primarily as meeting and conference rooms, a permanently installed or portable listening system shall be provided. If portable systems are used for conference or meeting rooms, the system may serve more than one room.

4.1.3 Accessible Housing. Accessible housing shall comply with the requirements of 4.1 and 4.34 except as noted below:

(1) **Elevators:** Where provided, elevators shall comply with 4.10. Elevators or other accessible means of vertical movement are not required in residential facilities when:

(a) No accessible dwelling units are located above or below the accessible grade level; and

(b) At least one of each type of common area and amenity provided for use of residents and visitors is available at the accessible grade level.

(2) **Entrances:** Entrances complying with 4.14 shall be provided as necessary to achieve access to and egress from buildings and facilities.

EXCEPTION: In projects consisting of one-to-four family dwellings where accessible entrances would be extraordinarily costly due to site conditions or local code restrictions, accessible entrances are required only to those buildings containing accessible dwelling units.

(3) **Common Areas:** At least one of each type of common area and amenity in each project shall be accessible and shall be located on an accessible route to any accessible dwelling unit.

4.1.4 Occupancy Classifications. Buildings and facilities shall comply with these standards to the extent noted in this section for various occupancy classifications, unless otherwise modified by a special application section. Occupancy classifications, and the facilities covered under each category include, but are not necessarily limited to, the listing which follows:

(1) **General Exceptions.** Accessibility is not required to elevator pits, elevator penthouses, mechanical rooms, piping or equipment catwalks, lookout galleries, electrical and telephone closets, and general utility rooms.

(2) **Military Exclusions.** The following facilities need not be designed to be accessible, but accessibility is recommended since the intended use of the facility may change with time.

(a) Unaccompanied personnel housing, closed messes, vehicle and aircraft maintenance facilities, where all work is performed by able-bodied military personnel, and, in general, all facilities which are intended for use or occupancy by able-bodied military personnel only.

(b) Those portions of Reserve and National Guard facilities which are designed and constructed primarily for use by able-bodied military personnel. This exclusion does not apply to those portions of a building or facility which may be open to the public or which may be used by the public during the conduct of normal business or which may be used by physically handicapped persons employed or seeking employment at such building or facility. These portions of the building or facility shall be accessible.

(c) Where the number of accessible spaces required is determined by the design capacity of a facility (such as parking or assembly areas), the number of able-bodied military persons used in determining the design capacity need not be counted when computing the number of accessible spaces required.

(3) **Military Housing.** In the case of military housing, which is primarily available for able-bodied military personnel and their dependents, at least 5

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percent of the total but at least one unit (on an installation-by-installation basis) of all housing constructed will be designed and built to be either accessible or readily and easily modifiable to be accessible, but in any event, modification of individual units (including the making of adaptations), will be accomplished on a high priority basis when a requirement is identified. Common areas such as walks, streets, parking and play areas, and common entrances to multi-unit facilities shall be designed and built to be accessible.

(4) **Assembly.** Assembly occupancy includes, among others, the use of a building or structure, or a portion thereof, for the gathering together of persons for purposes such as civic, social or religious functions, recreation, food or drink consumption, or awaiting transportation. A room or space used for assembly purposes by less than fifty (50) persons and accessory to another occupancy shall be included as a part of that major occupancy. For purposes of these standards, assembly occupancies shall include the following:

Facilities	Application
Amusement arcades	All areas for which the intended use will require public access or which may result in employment of physically handicapped persons.
Amusement park structures	
Arenas	
Armories	
Art galleries	
Auditoriums	
Banquet halls	
Bleachers	
Bowling alleys	
Carnivals	
Churches	
Clubs	
Community halls	
Courtrooms (public areas)	
Dance halls	
Drive-in theaters	
Exhibition halls	
Fairs	
Funeral parlors	
Grandstands	
Gymnasiums	
Motion picture theaters	
Indoor & outdoor swimming pools	
Indoor & outdoor tennis courts	
Lecture halls	
Libraries*	
Museums	
Night clubs	
Passenger stations	
Pool & billiard halls	
Restaurants**	
Skating rinks	

Facilities	Application
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Stadiums Taverns & bars Television studios admitting audiences Theaters	All areas for which the intended use will require public access or which may result in employment of physically handicapped persons.
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*See Part 8 for special applications.

**See Part 5 for special applications.

(5) **Business.** Business occupancy includes, among others, the use of a building or structure, or a portion thereof, for office, professional or service type transactions, including storage of records and accounts.

Facilities	Application
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Animal hospitals, kennels, pounds Automobile and other motor vehicle showrooms	All areas for which the intended use will require public access or which may result in employment of physically handicapped persons.
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Banks
Barber shops
Beauty shops
Car wash
Civic administration
Clinic, outpatient
Dry cleaning
Educational above 12th grade
Electronic data processing
Fire stations
Florists & nurseries
Laboratories: testing & research
Laundries
Motor vehicle service stations
Police stations
Post offices*
Print shops
Professional services: attorney, dentist, physician, engineer, etc.
Radio & T.V. stations
Telephone exchanges

*See Part 9 for special applications.

(6) **Educational.** Educational occupancy includes, among others, the use of a building or structure, or portion thereof, by six or more persons at any time for educational purposes through the 12th grade.

Schools for business or vocational training shall conform to the requirements of the trade, vocation or business taught.

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Facilities	Application	Facilities	Application
Academies Kindergarten Nursery schools Schools	All areas shall comply.	Printing or publishing Recreational vehicles Refuse incineration Shoes Soaps & detergents Steel products: fabrication, assembly Textiles Tobacco Trailers Upholstering Wood, distribution Millwork Woodworking, cabinet Postal mail: processing facilities*	All areas for which the intended use will require public access or which may result in employment of physically handicapped persons.
(7) Factory Industrial. Factory industrial occupancy includes, among others, the use of a building or structure, or portion thereof, for assembling, disassembling, fabricating, finishing, manufacturing, packaging, processing or other operations that are not classified as a Hazardous Occupancy.		*See Part 9 for special applications.	
Facilities	Application	(8) Hazardous. Hazardous occupancy includes, among others, the use of a building or structure, or a portion thereof, that involves the manufacturing, processing, generation or storage of corrosive, highly toxic, highly combustible, flammable or explosive materials that constitute a high fire or explosive hazard, including loose combustible fibers, dust and unstable materials.	
Aircraft Appliances Athletic equipment Automobile and other motor vehicle Bakeries Beverages Bicycles Boats, building Brick and masonry Broom or brush Business machines Canvases or similar Cameras and photo equipment Carpets & rugs, including cleaning Ceramic products Clothing Construction & agricultural machinery Disinfectants Dry cleaning & dyeing Electronics Engines, including rebuilding Film, photographic Food processing Foundries Furniture Glass products Gypsum Hemp products Ice Jute products Laundries Leather products Machinery Metal Motion pictures & television film Musical instruments Optical goods Paper products Plastic products	All areas for which the intended use will require public access or which may result in employment of physically handicapped persons.	Facilities	Application
		Combustible dust Combustible fibers Combustible liquid Corrosive liquids Explosive material Flammable gas Flammable liquid Liquified petroleum gas Nitromethane Oxidizing materials Organic peroxide	All areas for which the intended use will require public access or which may result in employment of physically handicapped persons.
		(9) Institutional. Institutional occupancy includes, among others, the use of a building or structure, or any portion thereof, in which people have physical or medical treatment or care, or in which the liberty of the occupants is restricted. Institutional occupancies shall include the following subgroups:	
		(a) Institutional occupancies for the care of children, including:	
Facilities	Application	Facilities	Application
Child care facilities	All public use, common use, or areas which may result in employment of physically handicapped persons.		

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<p>(b) Institutional occupancies used for medical or other treatment or care of persons, some of whom are suffering from physical or mental illness, disease or infirmity, including:</p>		<p>Facilities Department stores Drug stores Markets Retail stores Shopping centers Sales rooms</p>		<p>Application All areas for which the intended use will require public access or which may result in employment of physically handicapped persons.</p>
<p>Facilities Long Term Care Facilities (including Skilled Nursing Facilities, Intermediate Care Facilities, Bed & Care, and Nursing Homes).</p>	<p>Application At least 50 percent of patient toilets and bedrooms; all public use, common use or areas which may result in employment of physically handicapped persons.</p>	<p>* See Part 7 for special applications.</p>		
<p>Outpatient Facilities:</p>	<p>All patient toilets and bedrooms, all public use, common use, or areas which may result in employment of physically handicapped persons.</p>	<p>(11) Residential. Residential occupancy includes, among others, the use of a building or structure, or portion thereof, for sleeping accommodations when not classed as an institutional occupancy. Residential occupancies shall comply with the requirements of 4.1 and 4.34 except as follows:</p> <p>(a) Residential occupancies where the occupants are primarily transient in nature (less than 30 days) including:</p>		
<p>Hospital*:</p>		<p>Facilities Hotels Motels Boarding houses</p>	<p>Application 5 percent of the total units, or at least one, whichever is greater, and all public use, common use, and areas which may result in employment of physically handicapped persons.</p>	
<p>General Purpose Hospital:</p>	<p>At least 10 percent of patient toilets and bedrooms, all public use, common use, or areas which may result in employment of physically handicapped persons.</p>	<p>(b) Residential occupancies in multiple dwellings where the occupants are primarily permanent in nature, including:</p>		
<p>Special Purpose Hospital: (Hospitals that treat conditions that affect mobility).</p>	<p>All patient toilets and bedrooms, all public use, common use, or areas which may result in employment of physically handicapped persons.</p>	<p>Facilities Multifamily housing (Apartment houses):</p>	<p>Application</p>	
<p>* See Part 6 for special applications.</p>		<p>Federally assisted</p>	<p>5 percent of the total, or at least one unit, whichever is greater, in projects of 15 or more dwelling units, or as determined by the appropriate Federal agency following a local needs assessment conducted by local government bodies or states under applicable regulations.</p>	
<p>(c) Institutional occupancies where the occupants are under some degree of restraint or restriction for security reasons including:</p>		<p>Federally owned</p>	<p>5 percent of the total, or at least one unit, whichever is greater.</p>	
<p>Facilities Jails Prisons Reformatories Other detention or correctional facilities</p>	<p>Application 5 percent of residential units available, or at least one unit, whichever is greater; all common use, visitor use, or areas which may result in employment of physically handicapped persons.</p>	<p>Dormitories</p>	<p>5 percent of the total, or at least one unit, whichever is greater.</p>	
<p>(10) Mercantile*. Mercantile occupancy includes, among others, all buildings and structures or parts thereof, for the display and sale of merchandise, and involving stocks of goods, wares or merchandise incidental to such purposes and accessible to the public.</p>				

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4.1.5 Accessible Buildings: Additions

(c) Residential occupancies in one (1) and two (2) family dwellings where the occupancies are primarily permanent in nature and not classified as preceding residential categories or as institutional.			
Facilities	Application	Facilities	Application
One and two family dwelling:		Cement in bags	All areas for which the intended use will require public access or which may result in employment of physically handicapped persons shall comply.
		Electrical insulators	
		Gypsum board	
		Inert pigments	
		Dry insecticides	
Federally assisted, rental	5 percent of the total, or at least one unit, whichever is greater, in projects of 15 or more dwelling units, or as determined by the appropriate Federal agency following a local needs assessment conducted by local government bodies or states under applicable regulations.	(13) Utility and Miscellaneous. Utility and miscellaneous occupancies include, among others, accessory buildings and structures, such as:	
Federally assisted, homeownership	To be determined by home buyer.	Facilities	Application
Federally owned	5 percent of the total, or at least one unit, whichever is greater.	Fences over 6 ft. high	All areas for which the intended use will require public access or which may result in employment of physically handicapped persons shall comply.
		Tanks	
		Cooling towers	
		Retaining walls	
		Buildings of less than 1,000 sq. ft. such as:	
		Private garages	
		Carports	
		Sheds	
		Agricultural buildings	
(12) Storage. Storage occupancy includes, among others, the use of a building or structure, or portion thereof, for storage that is not classified as a Hazardous Occupancy.		4.1.5 Accessible Buildings: Additions.	
Facilities	Application	Each addition to an existing building shall comply with 4.1.1 to 4.1.4 of 4.1, Minimum Requirements, except as follows:	
Metal desks	All areas for which the intended use will require public access or which may result in employment of physically handicapped persons shall comply.	(1) Entrances. If a new addition to a building or facility does not have an entrance, then at least one entrance in the existing building or facility shall comply with 4.1.4, Entrances.	
Electrical coils		(2) Accessible route. If the only accessible entrance to the addition is located in the existing building or facility, then at least one accessible route shall comply with 4.3, Accessible Route, and shall provide access through the existing building or facility to all rooms, elements, and spaces in the new addition.	
Electrical motors		(3) Toilet and bathing facilities. If there are no toilet rooms and bathing facilities in the addition and these facilities are provided in the existing building, then at least one toilet and bathing facility in the existing building shall comply with 4.22, Toilet Rooms, or 4.23, Bathrooms, Bathing Facilities, and Shower Rooms.	
Dry cell batteries		(4) Elements, spaces, and common areas. If elements, spaces, or common areas are located in the existing building and they are not provided in the addition, then consideration should be given to making those elements, spaces, and common areas accessible in the existing building.	
Metal parts			
Empty cans			
Stoves			
Washers & Dryers			
Metal cabinets			
Glass bottles with noncombustible liquid			
Mirrors			
Foods in non-combustible containers			
Frozen foods			
Meats			
Fresh fruits and vegetables			
Dairy products			
Beer or wine up to 12 percent alcohol			
Distribution transformers			

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4.1.5 Accessible Buildings: Additions

EXCEPTIONS: Mechanical rooms, storage areas, and other such minor additions which normally are not frequented by the public or employees of the facility are excepted from 4.1.5.

(5) **Housing:** (Reserved).

4.1.6 Accessible Buildings: Alterations.

(1) **General.** Alterations to existing buildings or facilities shall comply with the following:

(a) If existing elements, spaces, essential features, or common areas are altered, then each such altered element, space, feature, or area shall comply with the applicable provisions of 4.1.1 to 4.1.4 of 4.1, Minimum Requirements.

(b) If power-driven vertical access equipment (e.g., escalator) is planned or installed where none existed previously, or if new stairs (other than stairs installed to meet emergency exit requirements) requiring major structural changes are planned or installed where none existed previously, then a means of accessible vertical access shall be provided that complies with 4.7, Curb Ramps; 4.8, Ramps; 4.10, Elevators; or 4.11, Platform Lifts, except to the extent where it is structurally impracticable in transit facilities.

(c) If alterations of single elements, when considered together, amount to an alteration of a space of a building or facility, the entire space shall be made accessible.

(d) No alteration of an existing element, space, or area of a building shall impose a requirement for greater accessibility than that which would be required for new construction. For example, if the elevators and stairs in a building are being altered and the elevators are, in turn, being made accessible, then no accessibility modifications are required to the stairs connecting levels connected by the elevator.

(e) If the alteration work is limited solely to the electrical, mechanical, or plumbing system and does not involve the alteration of any elements and spaces required to be accessible under these standards, then 4.1.6(3) does not apply.

(f) No new accessibility alterations will be required of existing elements or spaces previously constructed or altered in compliance with earlier standards issued pursuant to the Architectural Barriers Act of 1968, as amended.

(g) Mechanical rooms and other spaces which normally are not frequented by the public or employees of the building or facility or which by nature of their use are not required by the Architectural Barriers Act to be accessible are excepted from the requirements of 4.1.6.

(2) Where a building or facility is vacated and it is totally altered, then it shall be altered to comply with

4.1.1 to 4.1.5 of 4.1, Minimum Requirements, except to the extent where it is structurally impracticable.

(3) Where substantial alteration occurs to a building or facility, then each element or space that is altered or added shall comply with the applicable provisions of 4.1.1 to 4.1.4 of 4.1, Minimum Requirements, except to the extent where it is structurally impracticable. The altered building or facility shall contain:

(a) At least one accessible route complying with 4.3, Accessible Route, and 4.1.6(a);

(b) At least one accessible entrance complying with 4.14, Entrances. If additional entrances are altered then they shall comply with 4.1.6(a); and

(c) The following toilet facilities, whichever is greater:

(i) At least one toilet facility for each sex in the altered building complying with 4.22, Toilet Rooms, and 4.23, Bathrooms, Bathing Facilities, and Shower Rooms.

(ii) At least one toilet facility for each sex on each substantially altered floor, where such facilities are provided, complying with 4.22, Toilet Rooms; and 4.23, Bathrooms, Bathing Facilities, and Shower Rooms.

(d) In making the determination as to what constitutes "substantial alteration," the agency issuing standards for the facility shall consider the total cost of all alterations (including but not limited to electrical, mechanical, plumbing, and structural changes) for a building or facility within any twelve (12) month period. For guidance in implementing this provision, an alteration to any building or facility is to be considered substantial if the total cost for this twelve month period amounts to 50 percent or more of the full and fair cash value of the building as defined in 3.5.

EXCEPTION: If the cost of the elements and spaces required by 4.1.6(3)(a), (b), or (c) exceeds 15 percent of the total cost of all other alterations, then a schedule may be established by the standard-setting and/or funding agency to provide the required improvements within a 5-year period.

EXCEPTION: Consideration shall be given to providing accessible elements and spaces in each altered building or facility complying with:

- (i) 4.6, Parking and Passenger Loading Zones,
- (ii) 4.15, Drinking Fountains and Water Coolers,
- (iii) 4.25, Storage,
- (iv) 4.28, Alarms,
- (v) 4.31, Telephones,
- (vi) 4.32, Seating, Tables, and Work Surfaces,
- (vii) 4.33, Assembly Areas.

(4) Special technical provisions for alterations to existing buildings or facilities:

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4.1.7 Accessible Buildings: Historic Preservation

(a) Ramps. Curb ramps and ramps to be constructed on existing sites or in existing buildings or facilities may have slopes and rises as shown in Table 2 if space limitations prohibit the use of a 1:12 slope or less.

Table 2
Allowable Ramp Dimensions for
Construction in Existing Sites,
Buildings, and Facilities

Slope*	Maximum Rise		Maximum Run	
	in	mm	ft	m
Steeper than 1:10 but no steeper than 1:8	3	75	2	0.6
Steeper than 1:12 but no steeper than 1:10	6	150	5	1.5

*A slope steeper than 1:8 not allowed.

(b) Stairs. Full extension of stair handrails shall not be required in alterations where such extensions would be hazardous or impossible due to plan configuration.

(c) Elevators.

(i) If a safety door edge is provided in existing automatic elevators, then the automatic door reopening devices may be omitted (see 4.10.6).

(ii) Where existing shaft or structural elements prohibit strict compliance with 4.10.9, then the minimum floor area dimensions may be reduced by the minimum amount necessary, but in no case shall they be less than 48 in by 48 in (1220 mm by 1220 mm).

(d) Doors.

(i) Where existing elements prohibit strict compliance with the clearance requirements of 4.13.5, a projection of 5/8 in (16 mm) maximum will be permitted for the latch side door stop.

(ii) If existing thresholds measure 3/4 in (19 mm) high or less, and are beveled or modified to provide a beveled edge on each side, then they may be retained.

(e) Toilet rooms. Where alterations to existing facilities make strict compliance with 4.22 and 4.23 structurally impracticable, the addition of one "unisex" toilet per floor containing one water closet complying with 4.16 and one lavatory complying

with 4.19, located adjacent to existing toilet facilities, will be acceptable in lieu of making existing toilet facilities for each sex accessible.

EXCEPTION: In instances of alteration work where provision of a standard stall (Fig. 30(a)) is structurally impracticable or where plumbing code requirements prevent combining existing stalls to provide space, an alternate stall (Fig. 30(b)) may be provided in lieu of the standard stall.

(f) Assembly areas.

(i) In alterations where it is structurally impracticable to disperse seating throughout the assembly area, seating may be located in collected areas as structurally feasible. Seating shall adjoin an accessible route that also serves as a means of emergency egress.

(ii) In alterations where it is structurally impracticable to alter all performing areas to be on an accessible route, then at least one of each type shall be made accessible.

(5) Housing. (Reserved).

4.1.7 Accessible Buildings: Historic Preservation.

(1) Applicability.

(a) As a general rule, the accessibility provisions of part 4 shall be applied to "qualified" historic buildings and facilities. "Qualified" buildings or facilities are those buildings and facilities that are eligible for listing in the National Register of Historic Places, or such properties designated as historic under a statute of the appropriate state or local government body. Comments of the Advisory Council on Historic Preservation shall be obtained when required by Section 106 of the National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470 and 36 CFR Part 800, before any alteration to a qualified historic building.

(b) The Advisory Council shall determine, on a case-by-case basis, whether provisions required by part 4 for accessible routes (exterior and interior), ramps, entrances, toilets, parking, and displays and signage, would threaten or destroy the historic significance of the building or facility.

(c) If the Advisory Council determines that any of the accessibility requirements for features listed in 4.1.7(1) would threaten or destroy the historic significance of a building or facility, then the special application provisions of 4.1.7(2) for that feature may be utilized. The special application provisions listed under 4.1.7(2) may only be utilized following a written determination by the Advisory Council that application of a requirement contained in part 4 would threaten or destroy the historic integrity of a qualified building or facility.

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4.1.7 Accessible Buildings: Historic Preservation

(2) Historic Preservation: Minimum Requirements.

(a) At least one accessible route complying with 4.3 from a site access point to an accessible entrance shall be provided.

EXCEPTION: A ramp with a slope no greater than 1:6 for a run not to exceed 2 ft (610 mm) may be used as part of an accessible route at an entrance.

(b) At least one accessible entrance which is used by the public complying with 4.14 shall be provided.

EXCEPTION: If it is determined that no entrance used by the public can comply with 4.14, then access at any entrance not used by the general public but open (unlocked) with directional signs at the primary entrance may be used.

(c) If toilets are provided, then at least one toilet facility complying with 4.22 and 4.1.6 shall be provided along an accessible route that complies with 4.3. Such toilet facility may be "unisex" in design.

(d) Accessible routes from an accessible entrance to all publicly used spaces on at least the level of the accessible entrance shall be provided. Access should be provided to all levels of a building or facility in compliance with 4.1 whenever practical.

(e) Displays and written information, documents, etc., should be located where they can be seen by a seated person. Exhibits and signage displayed horizontally, e.g., books, should be no higher than 44 in (1120 mm) above the floor surface.

4.2 Space Allowance and Reach Ranges

4.2.1* Wheelchair Passage Width. The minimum clear width for single wheelchair passage shall be 32 in (815 mm) at a point and 36 in (915 mm) continuously (see Fig. 1 and 24(e)).

4.2.2 Width for Wheelchair Passing. The minimum width for two wheelchairs to pass is 60 in (1525 mm) (see Fig. 2).

4.2.3* Wheelchair Turning Space. The space required for a wheelchair to make a 180-degree turn is a clear space of 60 in (1525 mm) diameter (see Fig. 3(a)) or a T-shaped space (see Fig. 3(b)).

4.2.4* Clear Floor or Ground Space for Wheelchairs.

4.2.4.1 Size and Approach. The minimum clear floor or ground space required to accommodate a single, stationary wheelchair occupant is 30 in by 48 in (760 mm by 1220 mm) (see Fig. 4(a)). The minimum clear floor or ground space for wheelchairs may be positioned for forward or parallel approach to an object

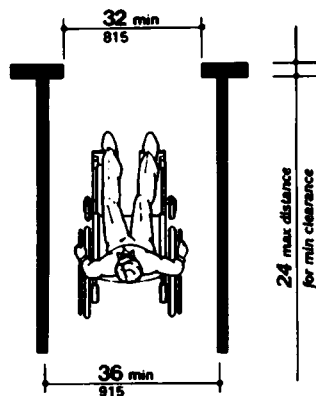


Fig. 1
Minimum Clear Width
for Single Wheelchair

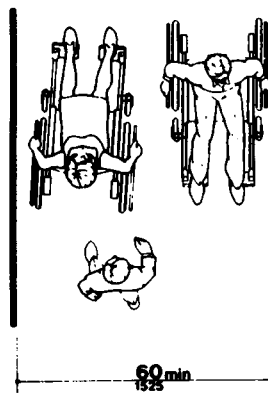
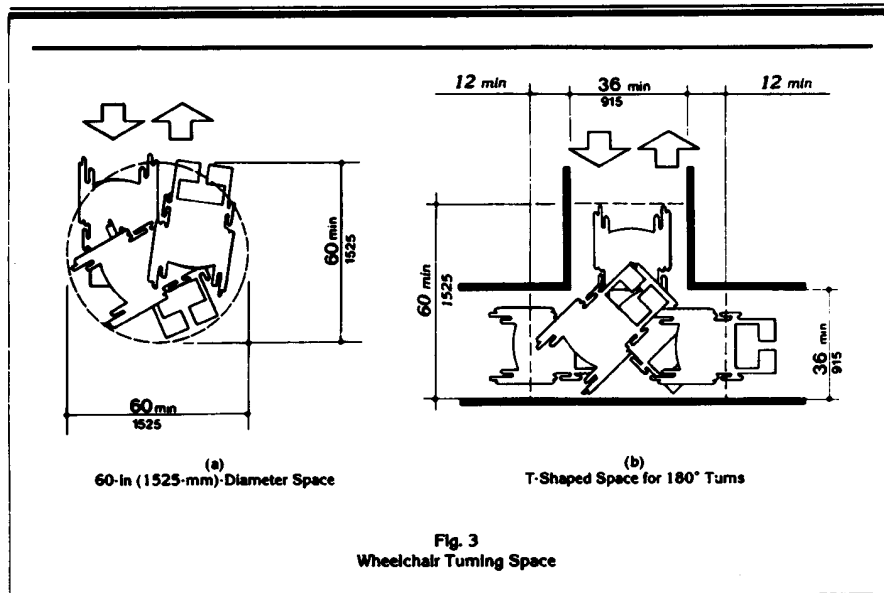


Fig. 2
Minimum Clear Width
for Two Wheelchairs

4.3 Accessible Route



(see Fig. 4(b) and (c)). Clear floor or ground space for wheelchairs may be part of the knee space required under some objects.

4.2.4.2 Relationship of Maneuvering Clearance to Wheelchair Spaces. One full unobstructed side of the clear floor or ground space for a wheelchair shall adjoin or overlap an accessible route or adjoin another wheelchair clear floor space. If a clear floor space is located in an alcove or otherwise confined on all or part of three sides, additional maneuvering clearances shall be provided as shown in Fig. 4(d) and (e).

4.2.4.3 Surfaces for Wheelchair Spaces. Clear floor or ground spaces for wheelchairs shall comply with 4.5.

4.2.5 Forward Reach. If the clear floor space only allows forward approach to an object, the maximum high forward reach allowed shall be 48 in (1220 mm) (see Fig. 5(a)). The minimum low forward reach is 15 in (380 mm). If the high forward reach is over an obstruction, reach and clearances shall be as shown in Fig. 5(b).

4.2.6* Side Reach. If the clear floor space allows parallel approach by a person in a wheelchair, the maximum high side reach allowed shall be 54 in (1370 mm) and the low side reach shall be no less than 9 in (230 mm) above the floor (Fig. 6(a) and (b)).

If the side reach is over an obstruction, the reach and clearances shall be as shown in Fig. 6(c).

4.3 Accessible Route.

4.3.1* General. All walks, halls, corridors, aisles, and other spaces that are part of an accessible route shall comply with 4.3.

4.3.2 Location.

(1) At least one accessible route *within the boundary of the site* shall be provided from public transportation stops, accessible parking, and accessible passenger loading zones, and public streets or sidewalks to the accessible building entrance they serve.

(2) At least one accessible route shall connect accessible buildings, facilities, elements, and spaces that are on the same site.

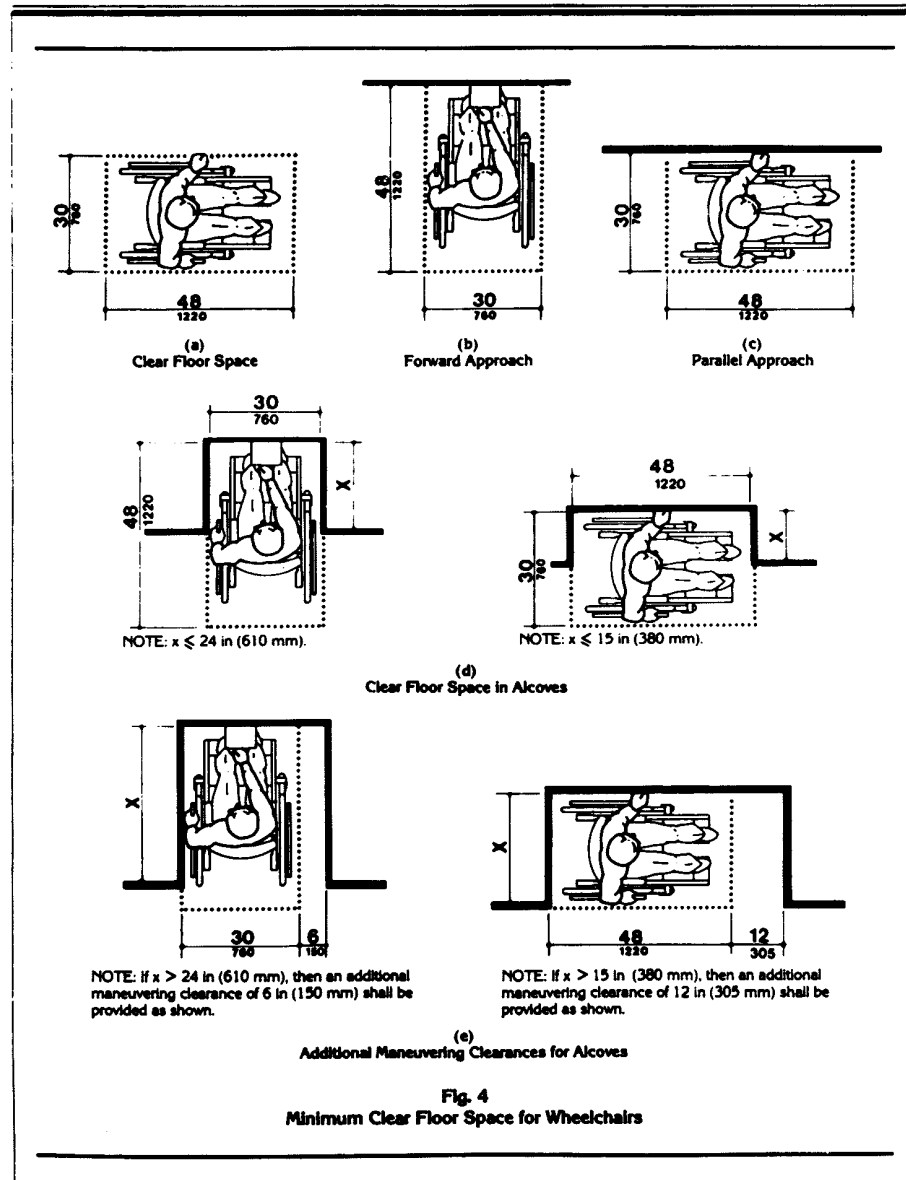
(3) At least one accessible route shall connect accessible building or facility entrances with all accessible spaces and elements and with all accessible dwelling units within the building or facility.

(4) An accessible route shall connect at least one accessible entrance of each accessible dwelling unit with those exterior and interior spaces and facilities that serve the accessible dwelling unit.

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4.3 Accessible Route

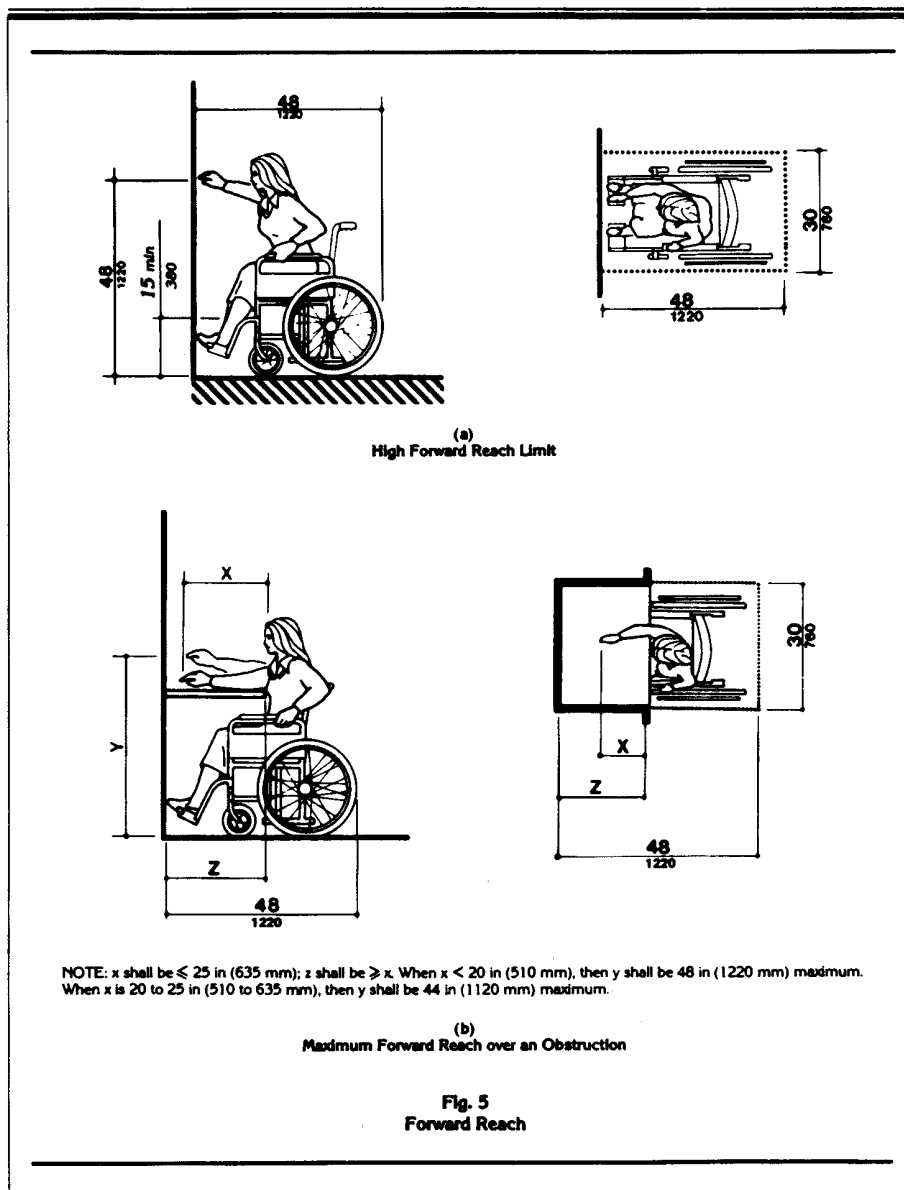


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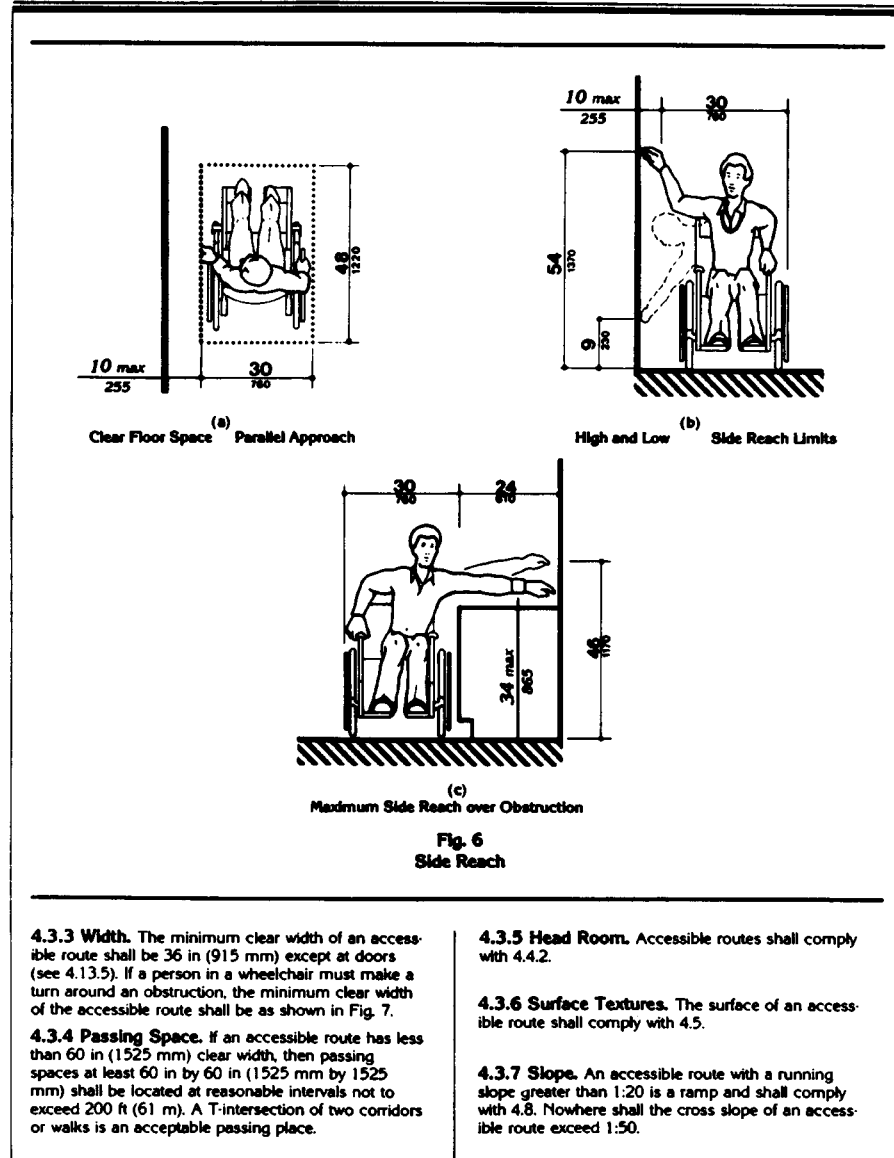
4.3 Accessible Route



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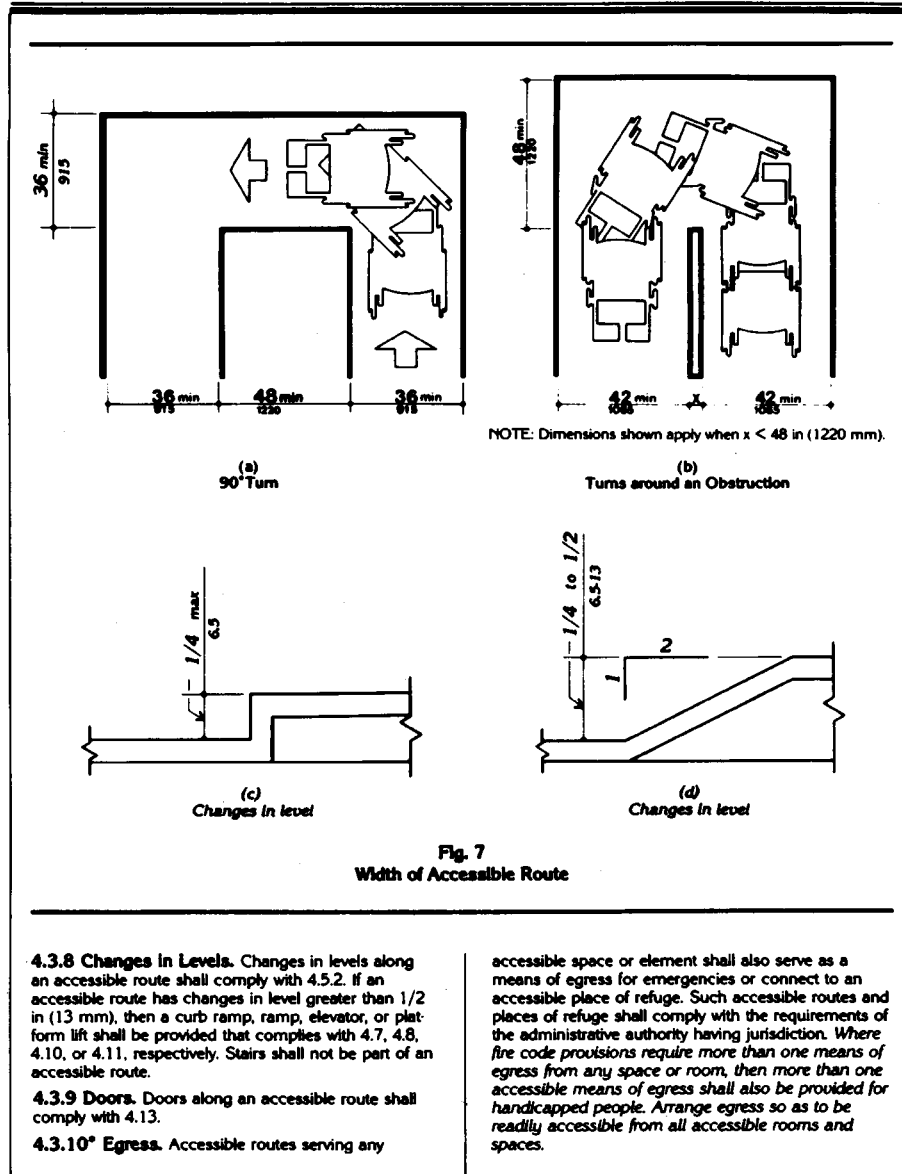
4.3 Accessible Route

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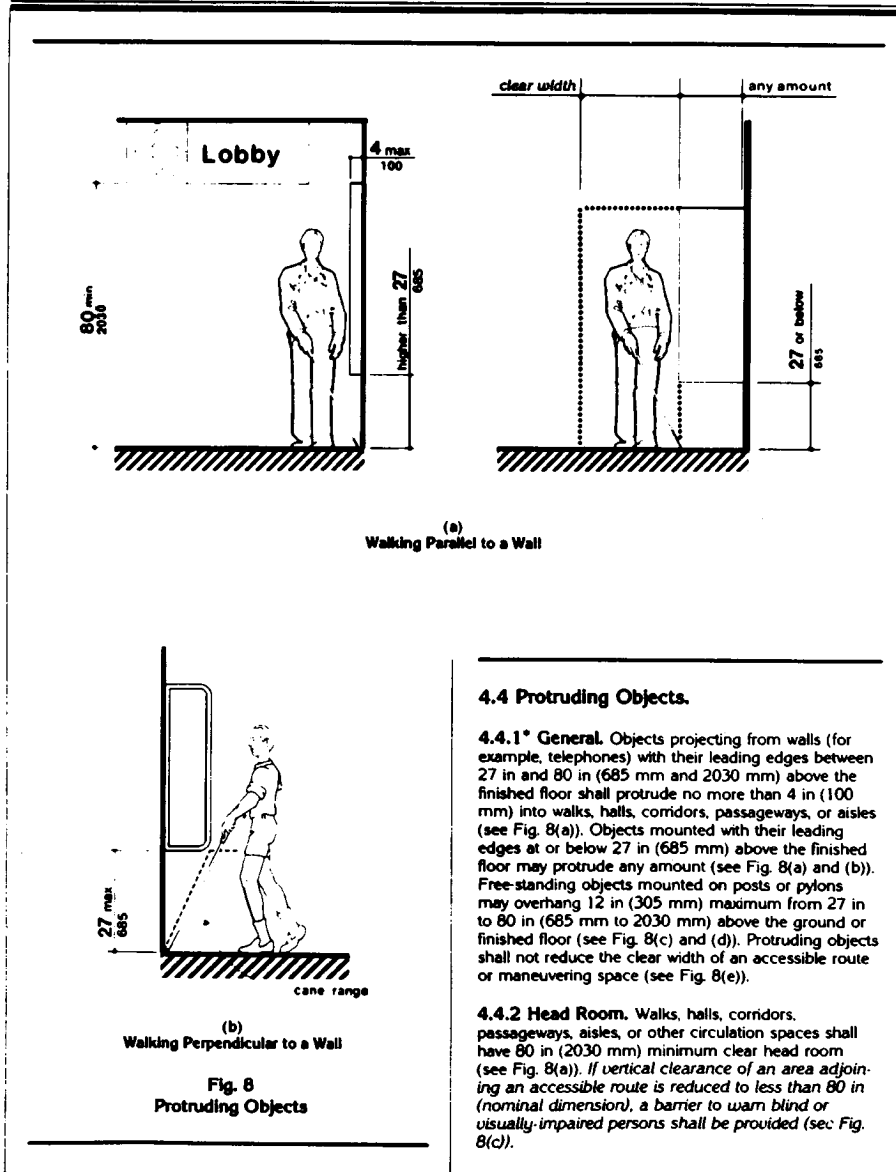
4.3 Accessible Route



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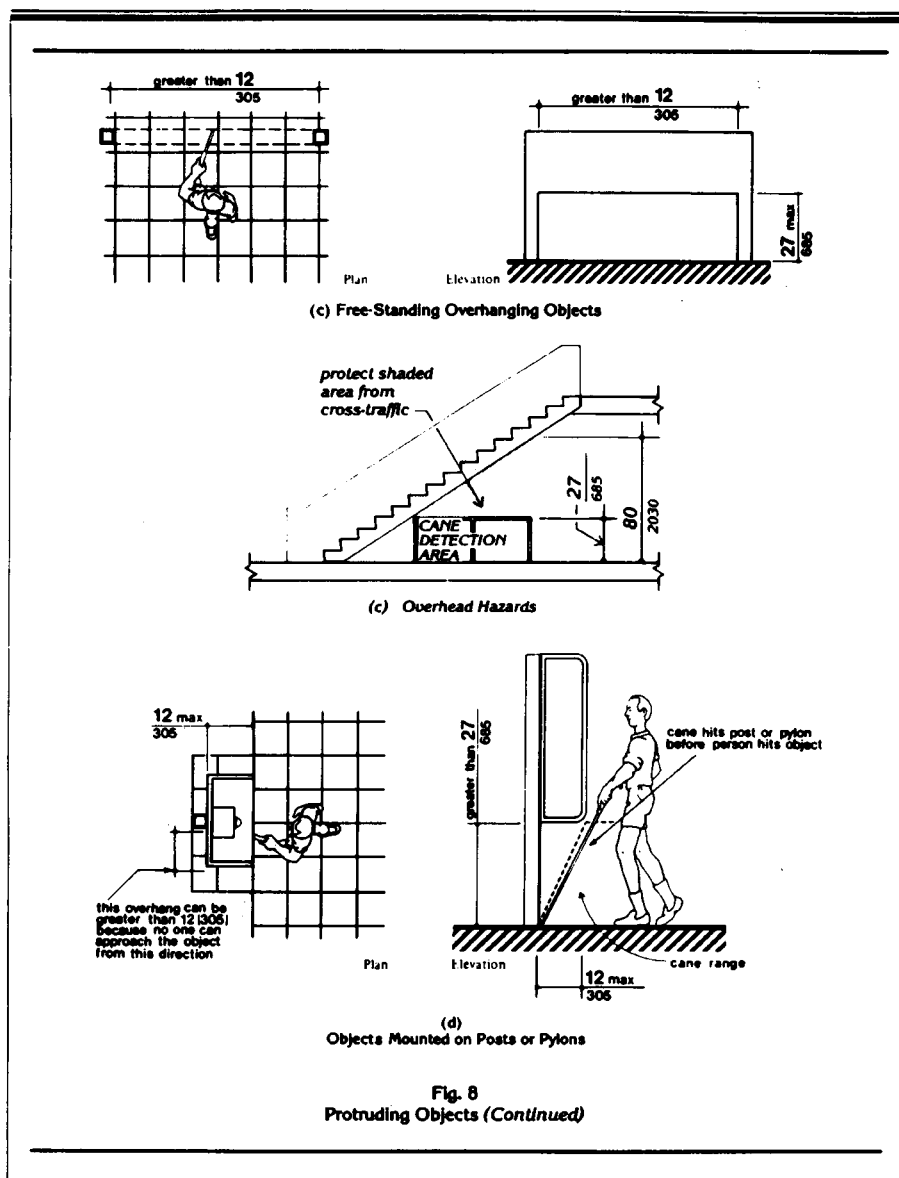
4.4 Protruding Objects

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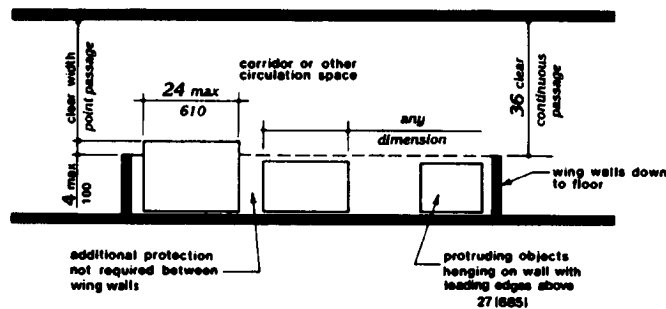
4.4 Protruding Objects



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4.4 Protruding Objects

(e)
Example of Protection around Wall-Mounted Objects and Measurements of Clear Widths

Fig. 8
Protruding Objects (Continued)

4.5 Ground and Floor Surfaces.

4.5.1* General. Ground and floor surfaces along accessible routes and in accessible rooms and spaces, including floors, walks, ramps, stairs, and curb ramps, shall be stable, firm, slip-resistant, and shall comply with 4.5.

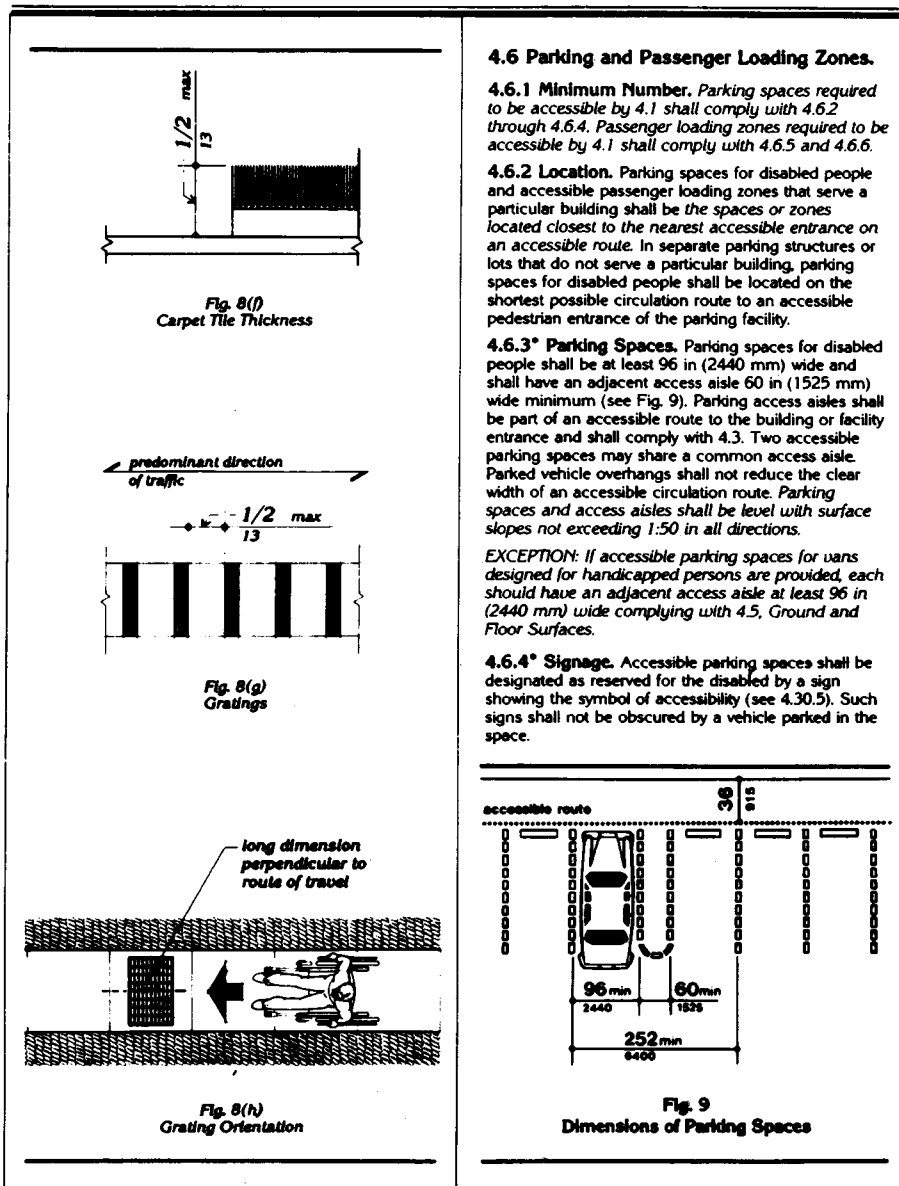
4.5.2 Changes in Level. Changes in level up to 1/4 in (6 mm) may be vertical and without edge treatment (see Fig. 7(c)). Changes in level between 1/4 in and 1/2 in (6 mm and 13 mm) shall be beveled with a slope no greater than 1:2 (see Fig. 7(d)). Changes in level greater than 1/2 in (13 mm) shall be accomplished by means of a ramp that complies with 4.7 or 4.8.

4.5.3* Carpet. If carpet or carpet tile is used on a ground or floor surface, then it shall be securely

attached; have a firm cushion, pad, or backing or no cushion or pad; and have a level loop, textured loop, level cut pile, or level cut/uncut pile texture. The maximum pile height shall be 1/2 in (13 mm). Exposed edges of carpet shall be fastened to floor surfaces and have trim along the entire length of the exposed edge. Carpet edge trim shall comply with 4.5.2. If carpet tile is used on an accessible ground or floor surface, it shall have a maximum combined thickness of pile, cushion, and backing height of 1/2 in (13 mm) (see Fig. 8(f)).

4.5.4 Gratings. If gratings are located in walking surfaces, then they shall have spaces no greater than 1/2 in (13 mm) wide in one direction (see Fig. 8(g)). If gratings have elongated openings, then they shall be placed so that the long dimension is perpendicular to the dominant direction of travel (see Fig. 8(h)).

4.6 Parking and Passenger Loading Zones



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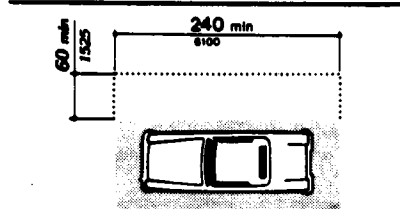
4.6 Parking and Passenger Loading Zones

Fig. 10
Access Aisle at Passenger Loading Zones

4.6.5 Passenger Loading Zones. Passenger loading zones shall provide an access aisle at least 60 in (1525 mm) wide and 20 ft (6 m) long adjacent and parallel to the vehicle pull-up space (see Fig. 10). If there are curbs between the access aisle and the

vehicle pull-up space, then a curb ramp complying with 4.7 shall be provided. Vehicle standing spaces and access aisles shall be level with surface slopes not exceeding 1:50 in all directions.

4.6.6 Vertical Clearance. Provide minimum vertical clearances of 114 in at accessible passenger loading zones and along vehicle access routes to such areas from site entrances. If accessible van parking spaces are provided, then the minimum vertical clearance should be 114 in.

4.7 Curb Ramps.

4.7.1 Location. Curb ramps complying with 4.7 shall be provided wherever an accessible route crosses a curb.

4.7.2 Slope. Slopes of curb ramps shall comply with 4.8.2. The slope shall be measured as shown in Fig. 11. Transitions from ramps to walks, gutters, or streets shall be flush and free of abrupt changes. Maximum slopes of adjoining gutters, road surface immediately adjacent to the curb ramp, or accessible route shall not exceed 1:20.

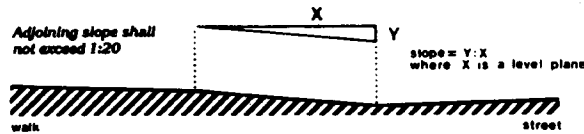


Fig. 11
Measurement of Curb Ramp Slopes

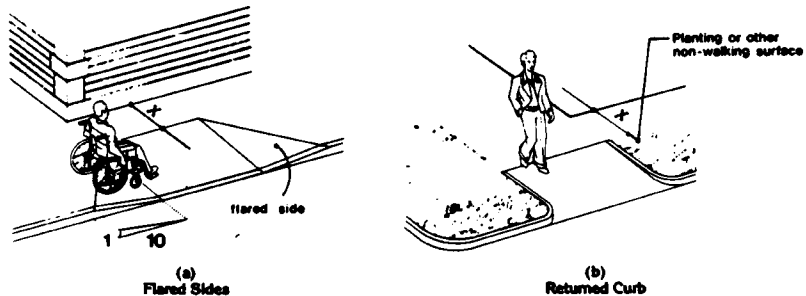


Fig. 12
Sides of Curb Ramps

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4.8 Ramps

4.7.3 Width. The minimum width of a curb ramp shall be 36 in (915 mm), exclusive of flared sides.

4.7.4 Surface. Surfaces of curb ramps shall comply with 4.5.

4.7.5 Sides of Curb Ramps. If a curb ramp is located where pedestrians must walk across the ramp, or where it is not protected by handrails or guardrails, then it shall have flared sides; the maximum slope of the flare shall be 1:10 (see Fig. 12(a)). Curb ramps with returned curbs may be used where pedestrians would not normally walk across the ramp (see Fig. 12(b)).

4.7.6 Built-up Curb Ramps. Built-up curb ramps shall be located so that they do not project into vehicular traffic lanes (see Fig. 13).

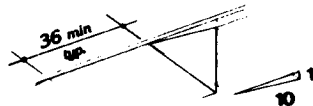


Fig. 13
Built-Up Curb Ramp

4.7.7 Warning Textures. *(Removed and reserved).*

4.7.8 Obstructions. Curb ramps shall be located or protected to prevent their obstruction by parked vehicles.

4.7.9 Location at Marked Crossings. Curb ramps at marked crossings shall be wholly contained within the markings, excluding any flared sides (see Fig. 15).

4.7.10 Diagonal Curb Ramps. If diagonal (or corner type) curb ramps have returned curbs or other well-defined edges, such edges shall be parallel to the direction of pedestrian flow. The bottom of diagonal curb ramps shall have 48 in (1220 mm) minimum clear space as shown in Fig. 15(c) and (d). If diagonal curb ramps are provided at marked crossings, the 48 in (1220 mm) clear space shall be within the markings (see Fig. 15(c) and (d)). If diagonal curb ramps have flared sides, they shall also have at least a 24 in (610 mm) long segment of straight curb located on each side of the curb ramp and within the marked crossing (see Fig. 15(c)).

4.7.11 Islands. Any raised islands in crossings shall be cut through level with the street or have curb ramps at both sides and a level area at least 48 in (1220 mm) long in the part of the island intersected by the crossings (see Fig. 15(a) and (b)).

4.7.12 Uncurbed Intersections. *(Removed and reserved).*

4.8 Ramps.

4.8.1* General. Any part of an accessible route with a slope greater than 1:20 shall be considered a ramp and shall comply with 4.8.

4.8.2* Slope and Rise. The least possible slope shall be used for any ramp. The maximum slope of a ramp in new construction shall be 1:12. The maximum rise for any run shall be 30 in (760 mm) (see Fig. 16). Curb ramps and ramps to be constructed on existing sites or in existing buildings or facilities may have slopes and rises as shown in Table 2 if space limitations prohibit the use of a 1:12 slope or less (see 4.1.5).

4.8.3 Clear Width. The minimum clear width of a ramp shall be 36 in (915 mm).

4.8.4 Landings. Ramps shall have level landings at the bottom and top of each run. Landings shall have the following features:

- (1) The landing shall be at least as wide as the ramp run leading to it.
- (2) The landing length shall be a minimum of 60 in (1525 mm) clear.
- (3) If ramps change direction at landings, the minimum landing size shall be 60 in by 60 in (1525 mm by 1525 mm).
- (4) If a doorway is located at a landing, then the area in front of the doorway shall comply with 4.13.6.

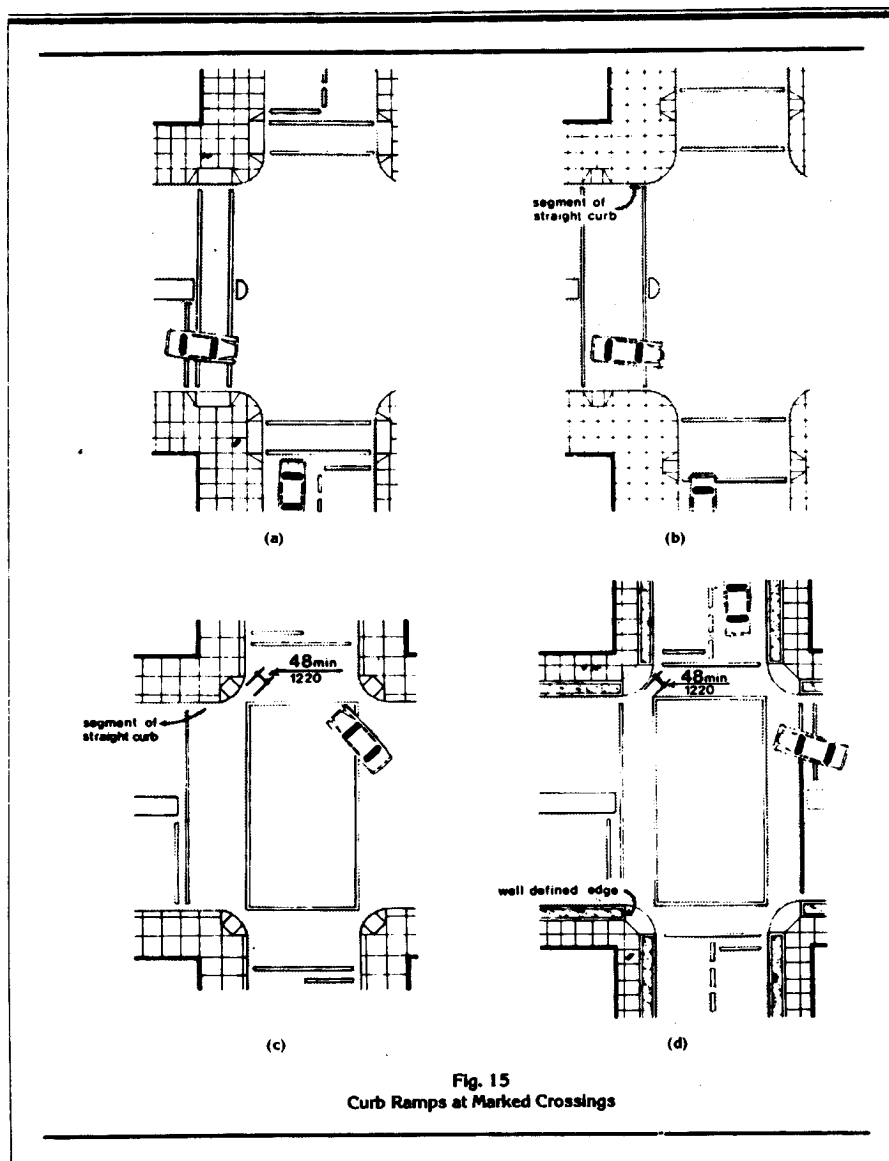
4.8.5* Handrails. If a ramp run has a rise greater than 6 in (250 mm) or a horizontal projection greater than 72 in (1830 mm), then it shall have handrails on both sides. Handrails are not required on curb ramps. Handrails shall comply with 4.26 and shall have the following features:

- (1) Handrails shall be provided along both sides of ramp segments. The inside handrail on switchback or dogleg ramps shall always be continuous.
- (2) If handrails are not continuous, they shall extend at least 12 in (305 mm) beyond the top and bottom of the ramp segment and shall be parallel with the floor or ground surface.
- (3) The clear space between the handrail and the wall shall be 1-1/2 in (38 mm).
- (4) Gripping surfaces shall be continuous.
- (5) Top of handrail gripping surfaces shall be mounted between 30 in and 34 in (760 mm and 865 mm) above ramp surfaces.
- (6) Ends of handrails shall be either rounded or returned smoothly to floor, wall, or post.
- (7) Handrails shall not rotate within their fittings.

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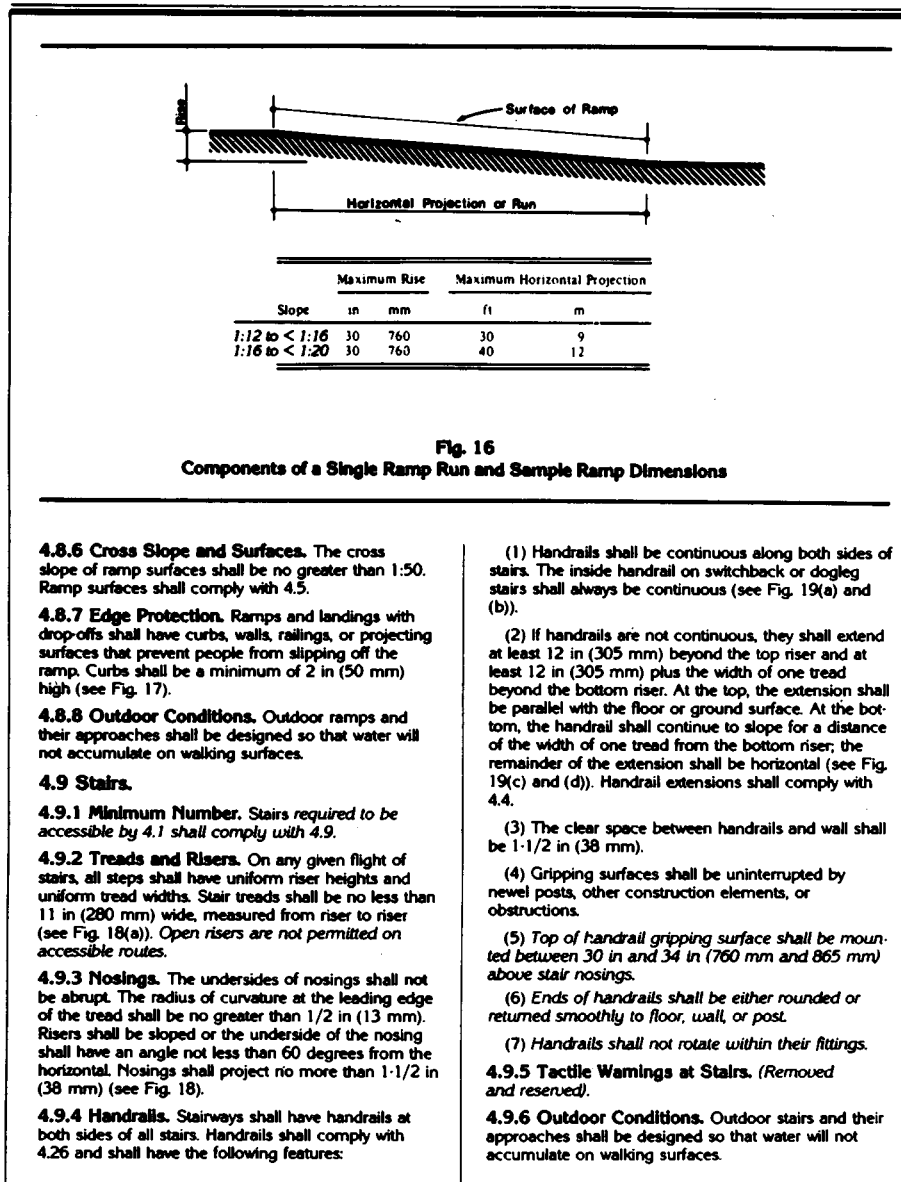
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4.8 Ramps



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4.9 Stairs

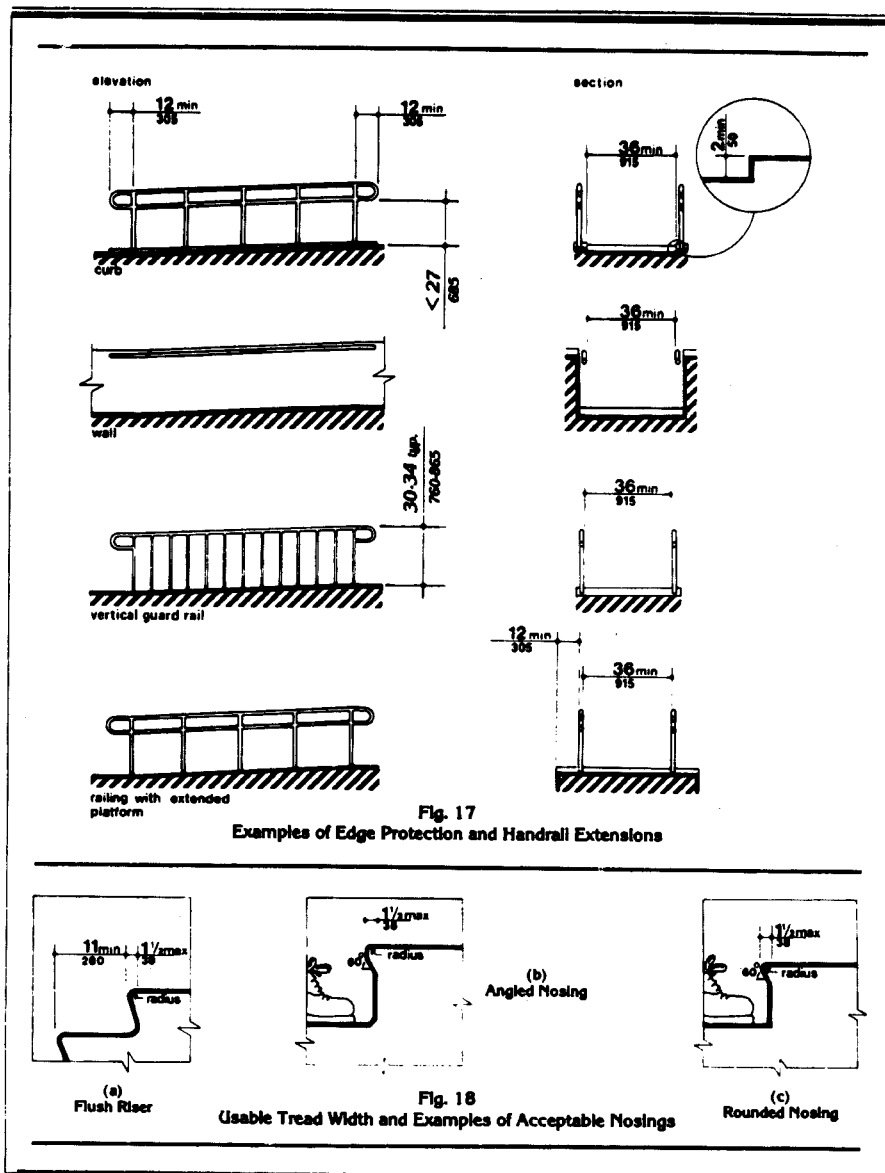


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4.9 Stairs

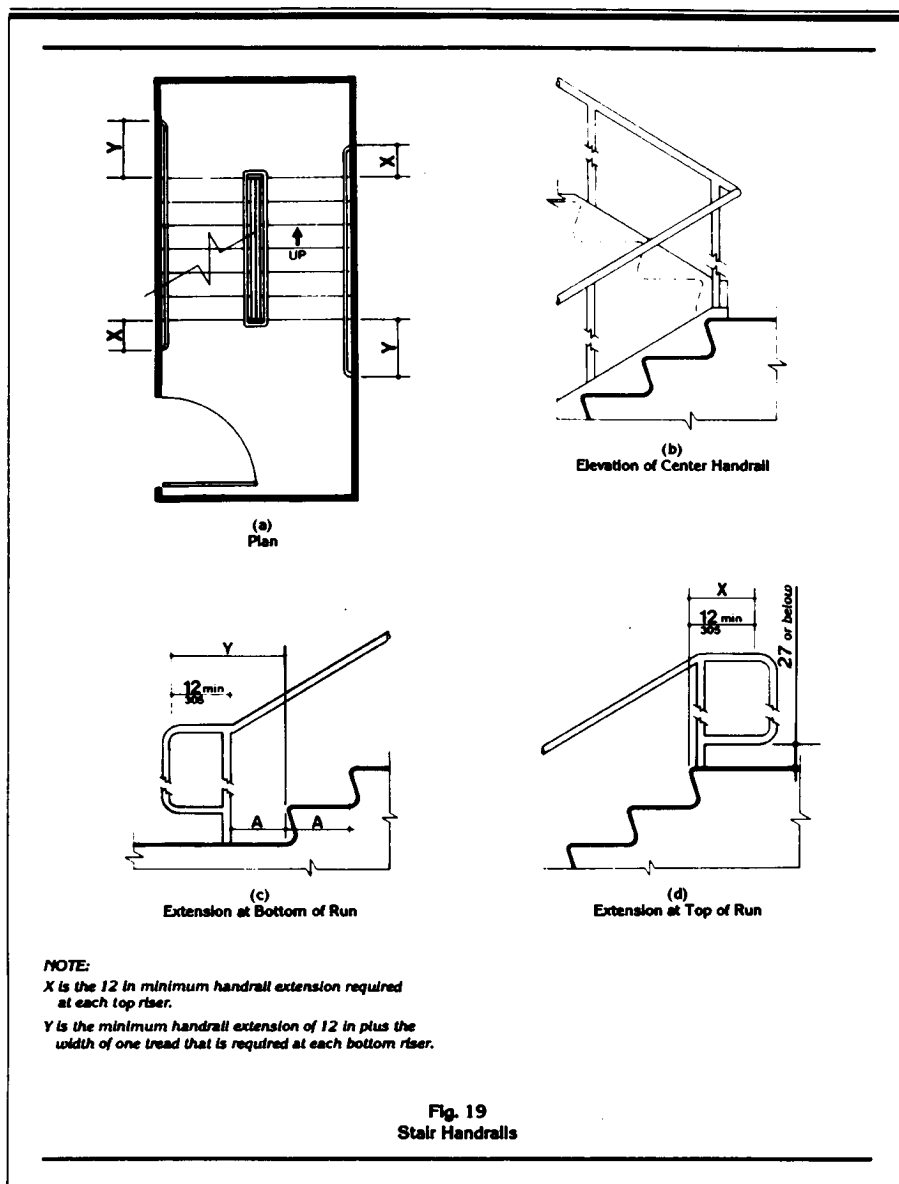


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4.9 Stairs



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4.10 Elevators**4.10 Elevators.**

4.10.1 General. Accessible elevators shall be on an accessible route and shall comply with 4.10 and with the American National Standard Safety Code for Elevators, Dumbwaiters, Escalators, and Moving Walks, ANSI A17.1-1978 and A17.1a-1979. This standard does not preclude the use of residential or fully enclosed wheelchair lifts when appropriate and approved by administrative authorities. *Freight elevators shall not be considered as meeting the requirements of this section, unless the only elevators provided are used as combination passenger and freight elevators for the public and employees.*

4.10.2 Automatic Operation. Elevator operation shall be automatic. Each car shall be equipped with a self-leveling feature that will automatically bring the car to floor landings within a tolerance of 1/2 in (13 mm) under rated loading to zero loading conditions. This self-leveling feature shall be automatic and independent of the operating device and shall correct the over-travel or under-travel.

4.10.3 Hall Call Buttons. Call buttons in elevator lobbies and halls shall be centered at 42 in (1065 mm) above the floor. Such call buttons shall have visual signals to indicate when each call is registered and when each call is answered. Call buttons shall be a minimum of 3/4 in (19 mm) in the smallest dimension. The button designating the up direction shall be on top (see Fig. 20). *Buttons shall be raised or flush. Objects mounted beneath hall call buttons shall not project into the elevator lobby more than 4 in (100 mm).*

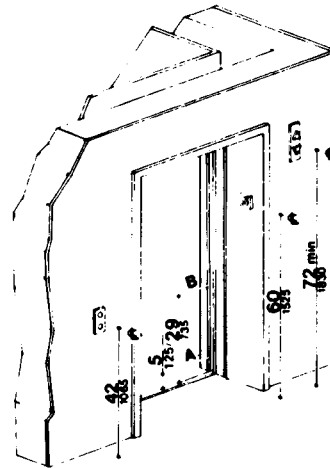
4.10.4 Hall Lanterns. A visible and audible signal shall be provided at each hoistway entrance to indicate which car is answering a call. Audible signals shall sound once for the up direction and twice for the down direction or shall have verbal annunciators that say "up" or "down." Visible signals shall have the following features:

(1) Hall lantern fixtures shall be mounted so that their centerline is at least 72 in (1830 mm) above the lobby floor.

(2) Visual elements shall be at least 2-1/2 in (64 mm) in the smallest dimension.

(3) Signals shall be visible from the vicinity of the hall call button, in-car lanterns located in cars, visible from the vicinity of hall call buttons, and conforming to the above requirements, shall be acceptable (see Fig. 20).

4.10.5 Raised Characters on Hoistway Entrances. All elevator hoistway entrances shall have raised floor designations provided on both jambs. The centerline of the characters shall be 60 in (1525 mm) from the floor. Such characters shall be 2 in (50 mm) high and shall comply with 4.30. Permanently applied plates are acceptable if they are permanently fixed to the jambs. (See Fig. 20).



NOTE: The automatic door reopening device is activated if an object passes through either line A or line B. Line A and line B represent the vertical locations of the door reopening device not requiring contact.

Fig. 20
Hoistway and Elevator Entrances

4.10.6* Door Protective and Reopening Device. Elevator doors shall open and close automatically. They shall be provided with a reopening device that will stop and reopen a car door and hoistway door automatically if the door becomes obstructed by an object or person. The device shall be capable of completing these operations without requiring contact for an obstruction passing through the opening at heights of 5 in and 29 in (125 mm and 735 mm) from the floor (see Fig. 20). Door reopening devices shall remain effective for at least 20 seconds. After such an interval, doors may close in accordance with the requirements of ANSI A17.1-1978 and A17.1a-1979.

4.10.7* Door and Signal Timing for Hall Calls. The minimum acceptable time from notification that a car is answering a call until the doors of that car start to close shall be calculated from the following equation:

$$T = \frac{D}{1.5 \text{ ft/s}} \quad \text{or} \quad T = \frac{D}{445 \text{ mm/s}}$$

where T = total time in seconds and D = distance (in feet or millimeters) from a point in the lobby or corridor 60 in (1525 mm) directly in front of the farthest

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4.10 Elevators

call button controlling that car to the centerline of its hoistway door (see Fig. 21). For cars with in-car lanterns, T begins when the lantern is visible from the vicinity of hall call buttons and an audible signal is sounded. The minimum acceptable notification time shall be 5 seconds.

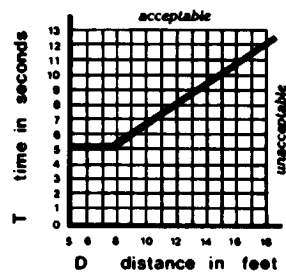


Fig. 21
Graph of Timing Equation

4.10.8 Door Delay for Car Calls. The minimum time for elevator doors to remain fully open in response to a car call shall be 3 seconds.

4.10.9 Floor Plan of Elevator Cars. The floor area of elevator cars shall provide space for wheelchair users to enter the car, maneuver within reach of controls, and exit from the car. Acceptable door opening and inside dimensions shall be as shown in Fig. 22. The clearance between the car platform sill and the edge of any hoistway landing shall be no greater than 1-1/4 in (32 mm).

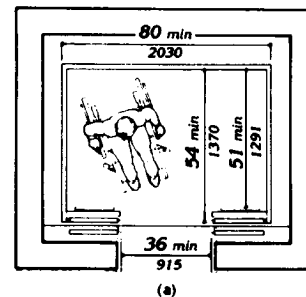
4.10.10 Floor Surfaces. Floor surfaces shall comply with 4.5.

4.10.11 Illumination Levels. The level of illumination at the car controls, platform, and car threshold and landing sill shall be at least 5 footcandles (53.8 lux).

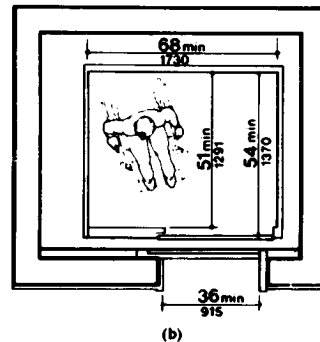
4.10.12* Car Controls. Elevator control panels shall have the following features:

(1) Buttons. All control buttons shall be at least 3/4 in (19 mm) in their smallest dimension. They may be raised or flush.

(2) Tactile and Visual Control Indicators. All control buttons shall be designated by raised standard alphabet characters for letters, arabic characters for numerals, or standard symbols as shown in Fig. 23(a), and as required in ANSI A17.1-1978 and A17.1-1979. Raised characters and symbols shall comply with 4.30. The call button for the main entry floor shall be



(a)



(b)

Fig. 22
Minimum Dimensions of Elevator Cars

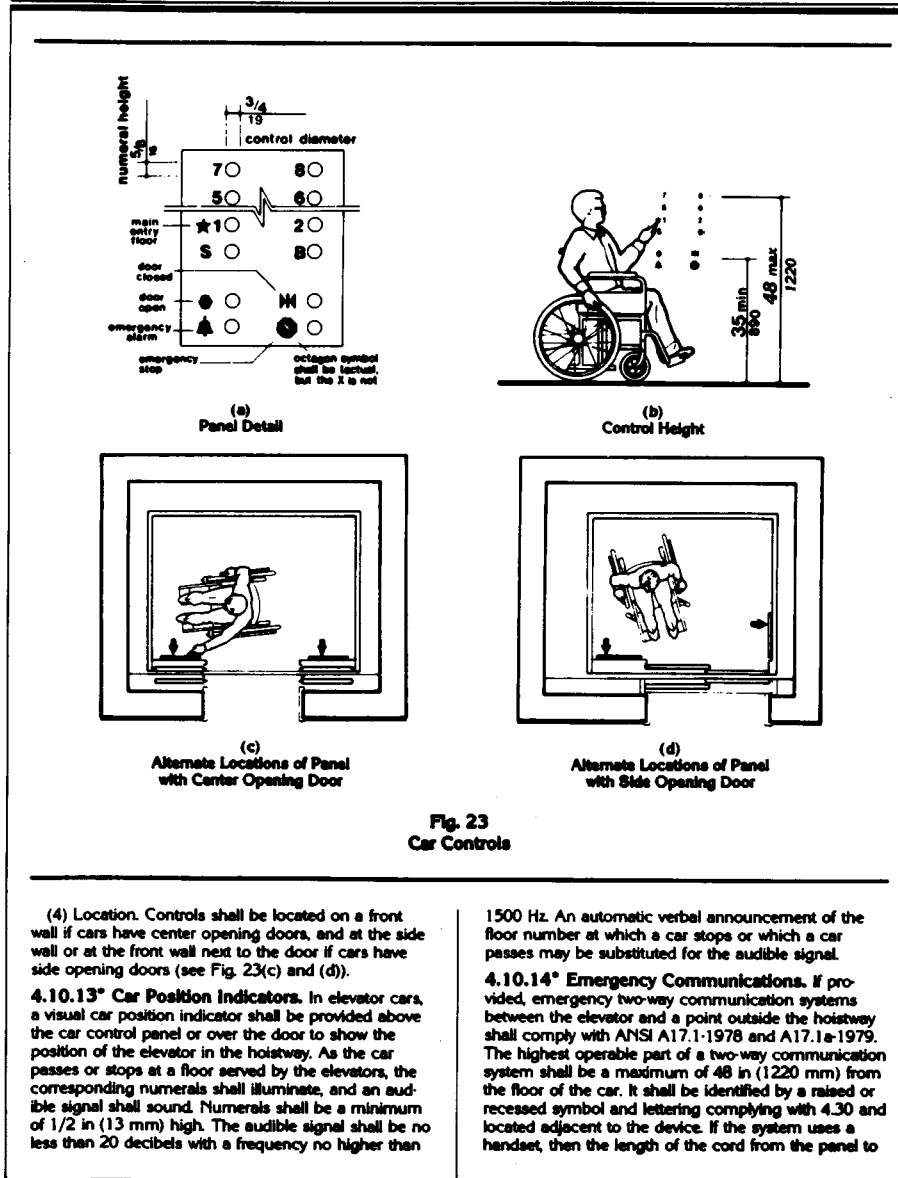
designated by a raised star at the left of the floor designation (see Fig. 23(a)). All raised designations for control buttons shall be placed immediately to the left of the button to which they apply. Applied plates, permanently attached, are an acceptable means to provide raised control designations. Floor buttons shall be provided with visual indicators to show when each call is registered. The visual indicators shall be extinguished when each call is answered.

(3) Height. All floor buttons shall be no higher than 48 in (1220 mm), unless there is a substantial increase in cost, in which case the maximum mounting height may be increased to 54 in (1370 mm), above the floor. Emergency controls, including the emergency alarm and emergency stop, shall be grouped at the bottom of the panel and shall have their centerlines no less than 35 in (890 mm) above the floor (see Fig. 23(a) and (b)).

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4.13 Doors

the handset shall be at least 29 in (735 mm). If the system is located in a closed compartment, the compartment door hardware shall conform to 4.27, Controls and Operating Mechanisms. The emergency intercommunication system shall not require voice communication.

4.11* Platform Lifts.

4.11.1 Location. Platform lifts permitted by 4.1 shall comply with the requirements of 4.11.

4.11.2 Other Requirements. If platform lifts are used, they shall comply with 4.2.4, 4.5, 4.27, and the applicable safety regulations of administrative authorities having jurisdiction.

4.11.3 Entrance. If platform lifts are used, then they should facilitate unassisted entry and exit from the lift in compliance with 4.11.2.

4.12 Windows. (Reserved).**4.13 Doors.**

4.13.1 General. Doors required to be accessible by 4.1 shall comply with the requirements of 4.13.

4.13.2 Revolving Doors and Turnstiles. Revolving doors or turnstiles shall not be the only means of passage at an accessible entrance or along an accessible route. An accessible gate or door shall be provided adjacent to the turnstile or revolving door and shall be so designed as to facilitate the same use pattern.

4.13.3 Gates. Gates, including ticket gates, shall meet all applicable specifications of 4.13.

4.13.4 Double-Leaf Doorways. If doorways have two independently operated door leaves, then at least one leaf shall meet the specifications in 4.13.5 and 4.13.6. That leaf shall be an active leaf.

4.13.5 Clear Width. Doorways shall have a minimum clear opening of 32 in (815 mm) with the door open 90 degrees, measured between the face of the door and the stop (see Fig. 24(a), (b), (c), and (d)). Openings more than 24 in (610 mm) in depth shall comply with 4.2.1 and 4.3.3 (see Fig. 24(e)).

EXCEPTION: Doors not requiring full user passage, such as shallow closets, may have the clear opening reduced to 20 in (510 mm) minimum.

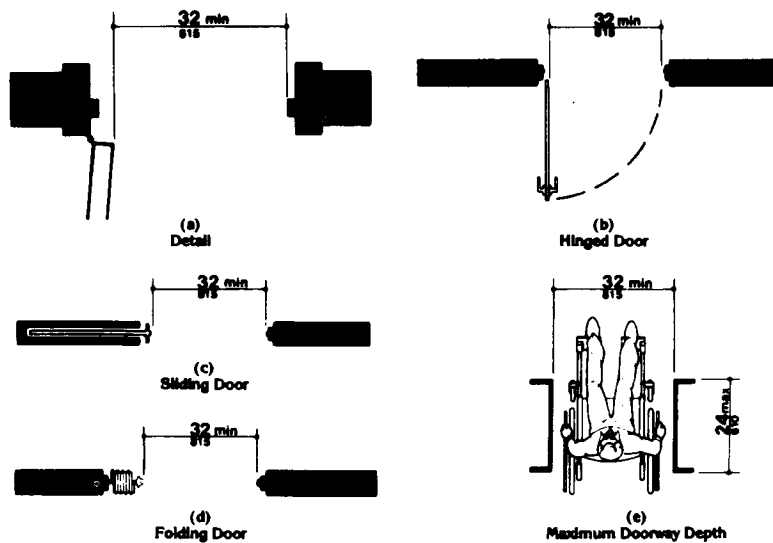


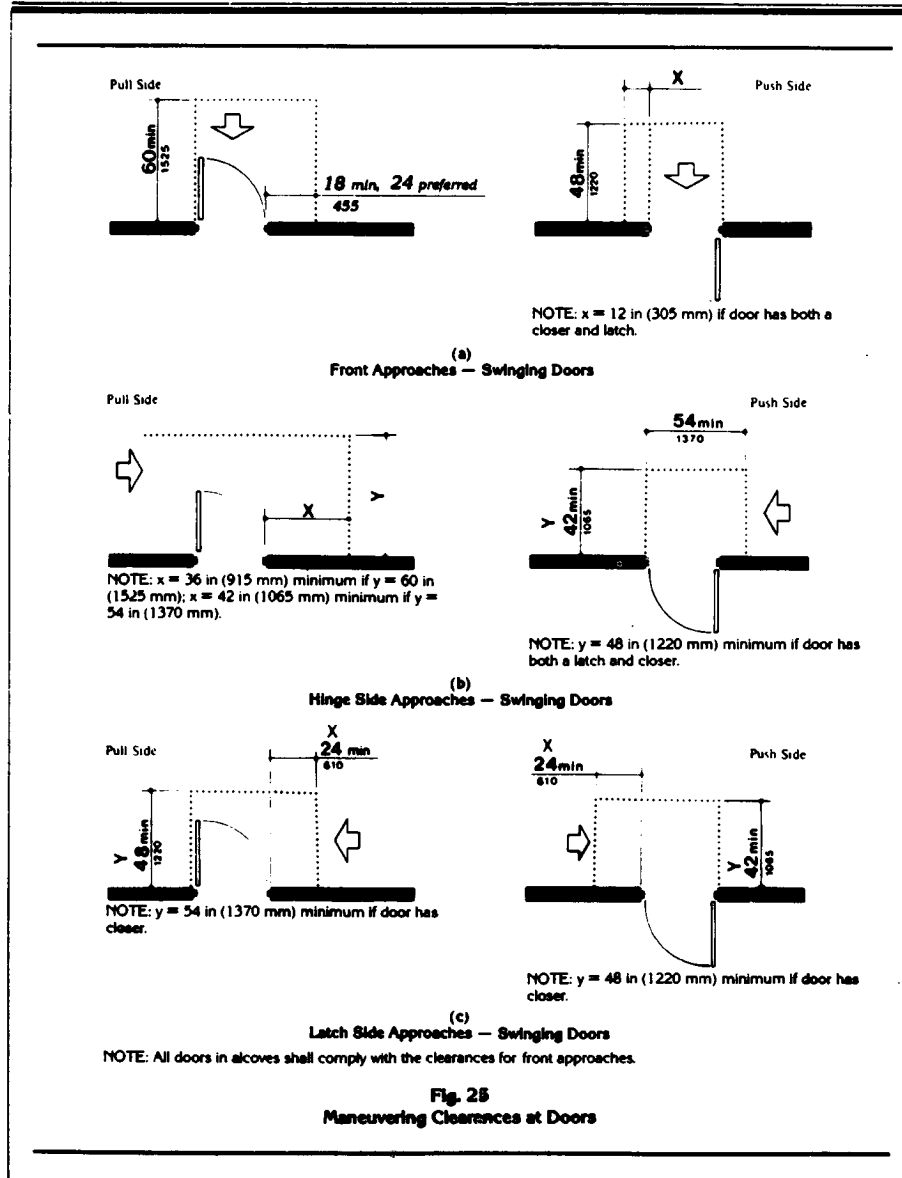
Fig. 24
Clear Doorway Width and Depth

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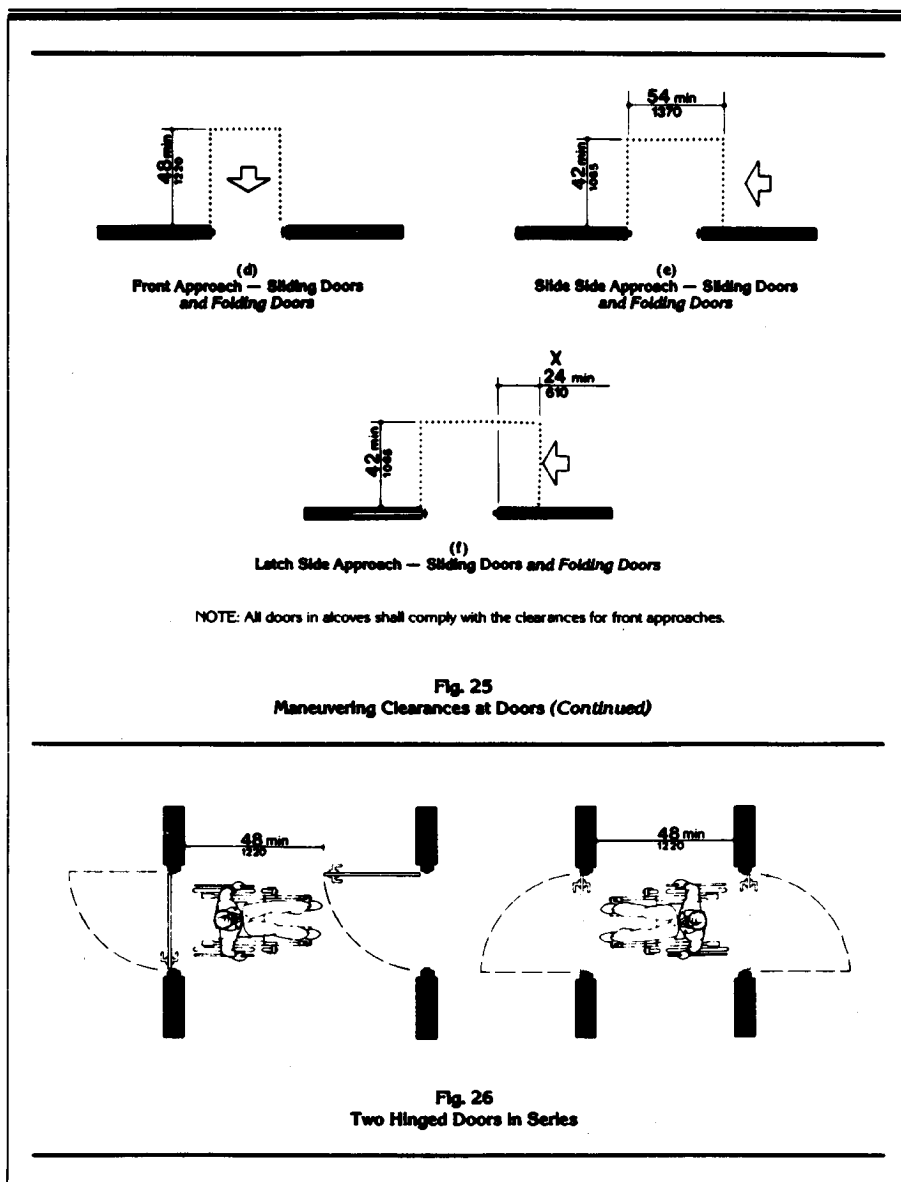
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4.13 Doors



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4.13 Doors



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4.13 Doors**4.13.6 Maneuvering Clearances at Doors.**

Minimum maneuvering clearances at doors that are not automatic or power-assisted shall be as shown in Fig. 25. The floor or ground area within the required clearances shall be level and clear. Entry doors to acute care hospital bedrooms for in-patients shall be exempted from the requirement for space at the latch side of the door (see dimension "x" in Fig. 25) if the door is at least 44 in (1120 mm) wide.

4.13.7 Two Doors in Series. The minimum space between two hinged or pivoted doors in series shall be 48 in (1220 mm) plus the width of any door swinging into the space. Doors in series shall swing either in the same direction or away from the space between the doors (see Fig. 26).

4.13.8* Thresholds at Doorways. Thresholds at doorways shall not exceed 3/4 in (19 mm) in height for exterior sliding doors or 1/2 in (13 mm) for other types of doors. Raised thresholds and floor level changes at accessible doorways shall be beveled with a slope no greater than 1:2 (see 4.5.2).

4.13.9* Door Hardware. Handles, pulls, latches, locks, and other operating devices on accessible doors shall have a shape that is easy to grasp with one hand and does not require tight grasping, tight pinching, or twisting of the wrist to operate. Lever-operated mechanisms, push-type mechanisms, and U-shaped handles are acceptable designs. When sliding doors are fully open, operating hardware shall be exposed and usable from both sides. In dwelling units, only doors at accessible entrances to the unit itself shall comply with the requirements of this paragraph. Doors to hazardous areas shall have hardware complying with 4.29.3. *Mount no hardware required for accessible door passage higher than 48 in (1220 mm) above finished floor.*

4.13.10* Door Closers. If a door has a closer, then the sweep period of the closer shall be adjusted so that from an open position of 70 degrees, the door will take at least 3 seconds to move to a point 3 in (75 mm) from the latch, measured to the leading edge of the door.

4.13.11* Door Opening Force. The maximum force for pushing or pulling open a door shall be as follows:

- (1) Fire doors shall have the minimum opening force allowable by the appropriate administrative authority.
- (2) Other doors.
 - (a) exterior hinged doors: *(Reserved)*.
 - (b) interior hinged doors: 5 lbf (22.2N)
 - (c) sliding or folding doors: 5 lbf (22.2N)

These forces do not apply to the force required to retract latch bolts or disengage other devices that may hold the door in a closed position.

4.13.12* Automatic Doors and Power-Assisted Doors. If an automatic door is used, then it shall comply with American National Standard for Power-Operated Doors, ANSI A156.10-1979. Slowly opening, low-powered, automatic doors shall be considered a type of custom design installation as described in paragraph 1.1.1 of ANSI A156.10-1979. Such doors shall not open to back check faster than 3 seconds and shall require no more than 15 lbf (66.6N) to stop door movement. If a power-assisted door is used, its door-opening force shall comply with 4.13.11 and its closing shall conform to the requirements in section 10 of ANSI A156.10-1979.

4.14 Entrances.

4.14.1 Minimum Number. *Entrances required to be accessible by 4.1* shall be part of an accessible route and shall comply with 4.3. Such entrances shall be connected by an accessible route to public transportation stops, to accessible parking and passenger loading zones, and to public streets or sidewalks if available (see 4.3.2(1)). They shall also be connected by an accessible route to all accessible spaces or elements within the building or facility.

4.14.2 Service Entrances. A service entrance shall not be the sole accessible entrance unless it is the only entrance to a building or facility (for example, in a factory or garage).

4.15 Drinking Fountains and Water Coolers.

4.15.1 Minimum Number. *Drinking fountains or water coolers required to be accessible by 4.1* shall comply with 4.15.

4.15.2* Spout Height. Spouts shall be no higher than 36 in (915 mm), measured from the floor or ground surfaces to the spout outlet (see Fig. 27(a)).

4.15.3 Spout Location. The spouts of drinking fountains and water coolers shall be at the front of the unit and shall direct the water flow in a trajectory that is parallel or nearly parallel to the front of the unit. The spout shall provide a flow of water at least 4 in (100 mm) high so as to allow the insertion of a cup or glass under the flow of water.

4.15.4 Controls. Controls shall comply with 4.27.4. *Unit controls shall be front mounted or side mounted near the front edge.*

4.15.5 Clearances.

(1) Wall- and post-mounted cantilevered units shall have a clear knee space between the bottom of the apron and the floor or ground at least 27 in (685 mm) high, 30 in (760 mm) wide, and 17 in to 19 in (430 mm to 485 mm) deep (see Fig. 27(a) and (b)). Such units shall also have a minimum clear floor space 30 in by 48 in (760 mm by 1220 mm) to allow a person in a wheelchair to approach the unit facing forward.

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4.16 Water Closets

(2) Free-standing or built-in units not having a clear space under them shall have a clear floor space at least 30 in by 48 in (760 mm by 1220 mm) that allows a person in a wheelchair to make a parallel approach to the unit (see Fig. 27(c) and (d)). This clear floor space shall comply with 4.2.4.

4.16 Water Closets.

4.16.1 General. Accessible water closets shall comply with 4.16. For water closets in accessible dwelling units, see 4.34.5.2.

4.16.2 Clear Floor Space. Clear floor space for water closets not in stalls shall comply with Fig. 28. Clear floor space may be arranged to allow either a left-handed or right-handed approach.

4.16.3 Height. The height of water closets shall be 17 in to 19 in (430 mm to 485 mm), measured to the top of the toilet seat (see Fig. 29(b)). Seats shall not be sprung to return to a lifted position.

4.16.4 Grab Bars. Grab bars for water closets not located in stalls shall comply with Fig. 29 and 4.26.

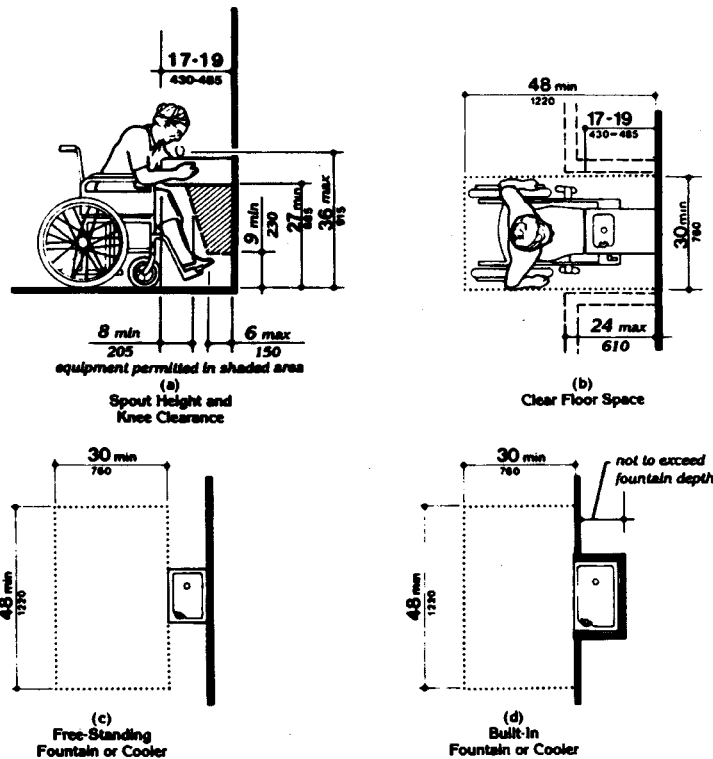
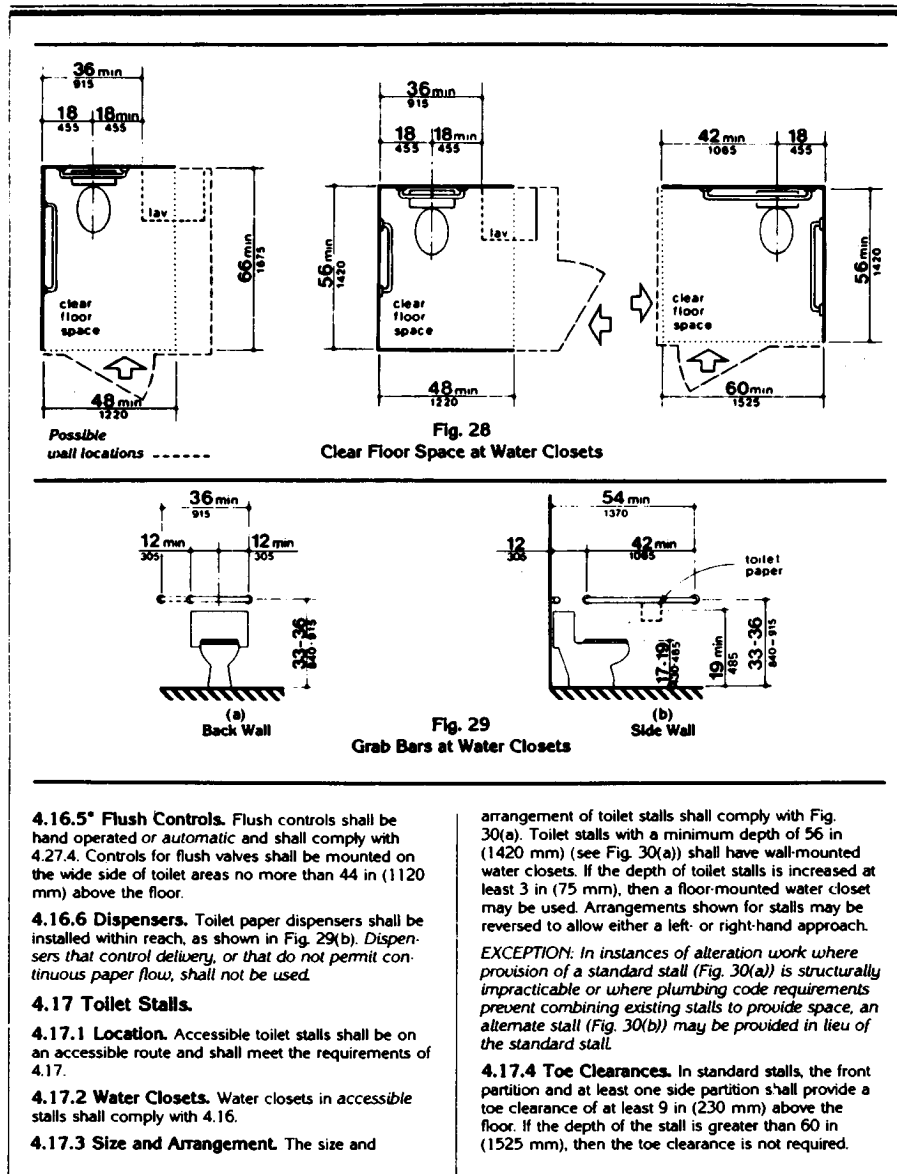


Fig. 27
Drinking Fountains and Water Coolers

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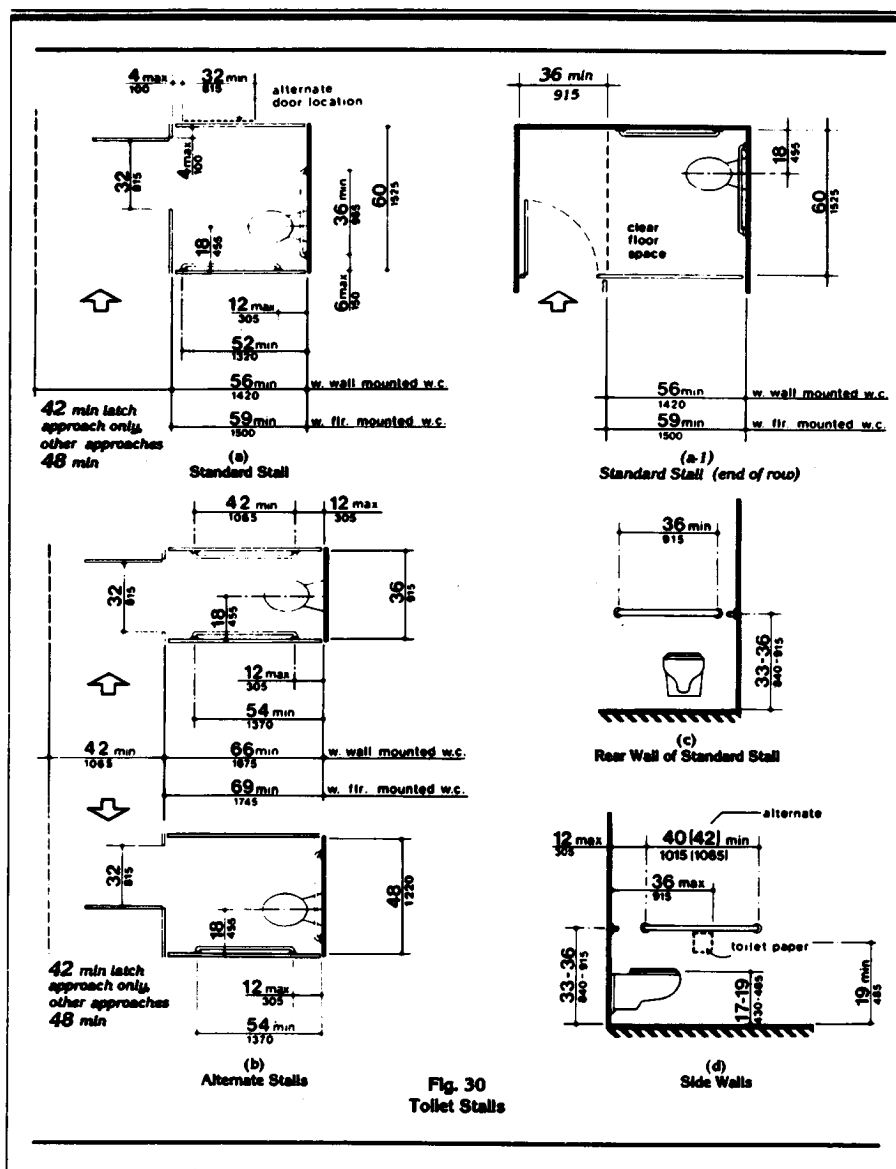
4.16 Water Closets

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4.17 Toilet Stalls



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4.17 Toilet Stalls

4.17.5* Doors. Toilet stall doors shall comply with 4.13. *If toilet stall approach is from the latch side of the stall door, clearance between the door side of the stall and any obstruction may be reduced to a minimum of 42 in (1065 mm).*

4.17.6 Grab Bars. Grab bars complying with the length and positioning shown in Fig. 30(a), (b), (c), and (d) shall be provided. Grab bars may be mounted with any desired method as long as they have a gripping surface at the locations shown and do not obstruct the required clear floor area. Grab bars shall comply with 4.26.

4.18 Urinals.

4.18.1 General. Accessible urinals shall comply with 4.18.

4.18.2 Height. Urinals shall be stall-type or wall-hung with an elongated rim at a maximum of 17 in (430 mm) above the floor.

4.18.3 Clear Floor Space. A clear floor space 30 in by 48 in (760 mm by 1220 mm) shall be provided in front of urinals to allow forward approach. This clear space shall adjoin or overlap an accessible route and shall comply with 4.2.4. *Urinal shields that do not extend beyond the front edge of the urinal rim may be provided with 29 in (735 mm) clearance between them.*

4.18.4 Flush Controls. Flush controls shall be hand operated or automatic, and shall comply with 4.27.4, and shall be mounted no more than 44 in (1120 mm) above the floor.

4.19 Lavatories and Mirrors.

4.19.1 General. The requirements of 4.19 shall apply to lavatory fixtures, vanities, and built-in lavatories.

4.19.2 Height and Clearances. Lavatories shall be mounted with the rim or counter surface no higher than 34 in (865 mm) above the finished floor. Provide a clearance of at least 29 in (735 mm) from the floor to the bottom of the apron. Knee and toe clearance shall comply with Fig. 31.

4.19.3 Clear Floor Space. A clear floor space 30 in by 48 in (760 mm by 1220 mm) complying with 4.2.4 shall be provided in front of a lavatory to allow forward approach. Such clear floor space shall adjoin or overlap an accessible route and shall extend a maximum of 19 in (485 mm) underneath the lavatory (see Fig. 32).

4.19.4 Exposed Pipes and Surfaces. Hot water and drain pipes under lavatories shall be insulated or otherwise covered. There shall be no sharp or abrasive surfaces under lavatories.

4.19.5 Faucets. Faucets shall comply with 4.27.4. Lever-operated, push-type, and electronically controlled mechanisms are examples of acceptable designs. Self-closing valves are allowed if the faucet remains open for at least 10 seconds.

4.19.6* Mirrors. Mirrors shall be mounted with the bottom edge of the reflecting surface no higher than 40 in (1015 mm) from the floor (see Fig. 31).

4.20 Bathtubs.

4.20.1 General. Accessible bathtubs shall comply with 4.20. For bathtubs in accessible dwelling units, see 4.34.5.4.

4.20.2 Floor Space. Clear floor space in front of bathtubs shall be as shown in Fig. 33.

4.20.3 Seat. An in-tub seat or a seat at the head end of the tub shall be provided as shown in Fig. 33 and 34. The structural strength of seats and their attachments shall comply with 4.26.3. Seats shall be mounted securely and shall not slip during use.

4.20.4 Grab Bars. Grab bars complying with 4.26 shall be provided as shown in Fig. 33 and 34.

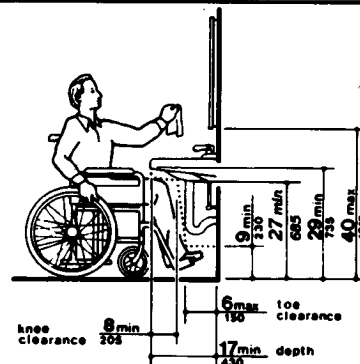


Fig. 31
Lavatory Clearances

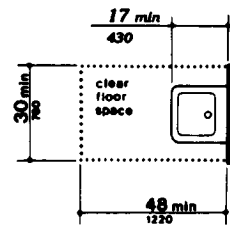
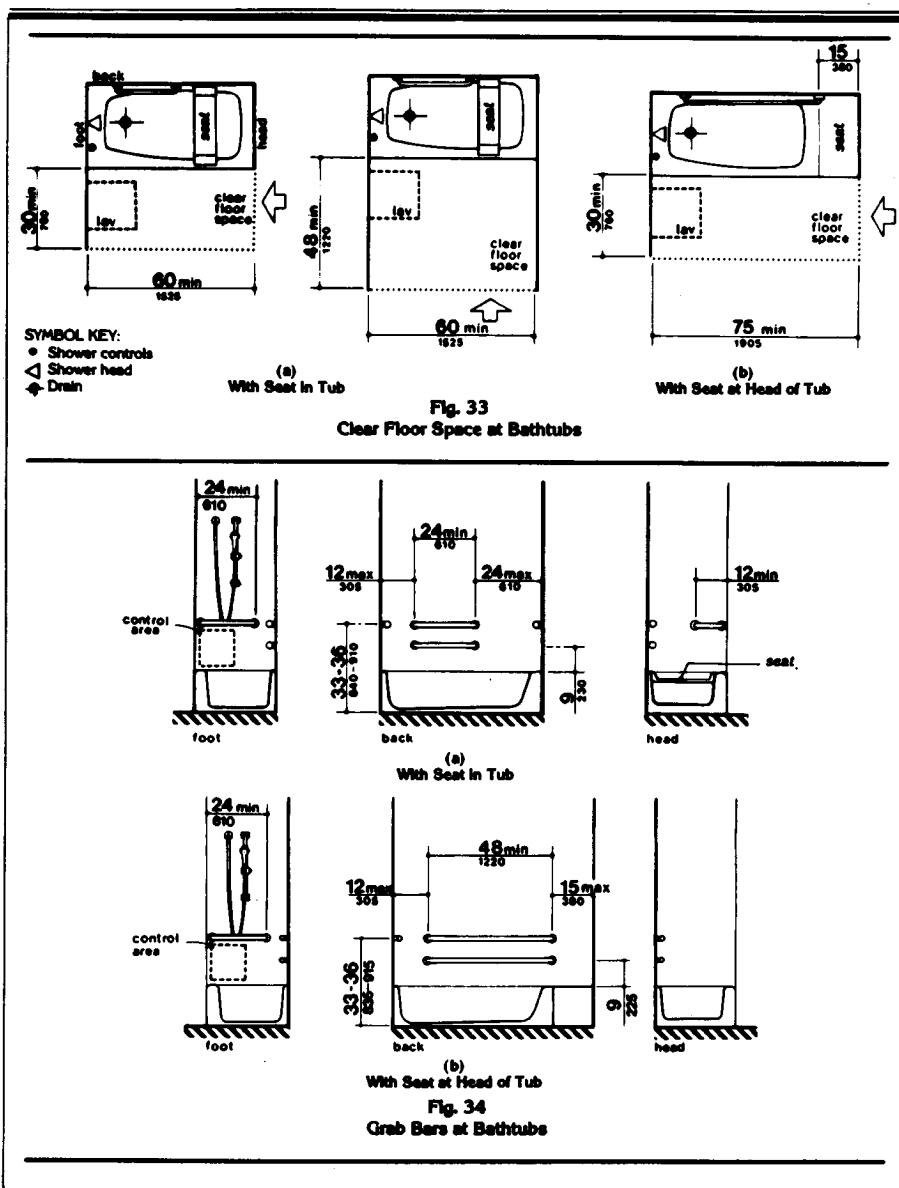


Fig. 32
Clear Floor Space at Lavatories

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4.20 Bathtubs



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4.20 Bathtubs

4.20.5 Controls. Faucets and other controls complying with 4.27.4 shall be located as shown in Fig. 34.

4.20.6 Shower Unit. A shower spray unit with a hose at least 60 in (1525 mm) long that can be used as a fixed shower head or as a hand-held shower shall be provided.

4.20.7 Bathtub Enclosures. If provided, enclosures for bathtubs shall not obstruct controls or transfer from wheelchairs onto bathtub seats or into tubs. Enclosures on bathtubs shall not have tracks mounted on their rims.

4.21 Shower Stalls.

4.21.1* General. Accessible shower stalls shall comply with 4.21. For shower stalls in accessible dwelling units, see 4.34.5.5.

4.21.2 Size and Clearances. Shower stall size and clear floor space shall comply with Fig. 35(a) or (b). The shower stall in Fig. 35(a) shall be 36 in by 36 in (915 mm by 915 mm). The shower stall in Fig. 35(b) will fit into the space required for a bathtub.

4.21.3 Seat. A seat shall be provided in shower stalls 36 in by 36 in (915 mm by 915 mm) and shall be as shown in Fig. 36. The seat shall be mounted 17 in to 19 in (430 mm to 485 mm) from the bathroom floor and shall extend the full depth of the stall. The seat shall be on the wall opposite the controls. The structural strength of seats and their attachments shall comply with 4.26.3.

4.21.4 Grab Bars. Grab bars complying with 4.26 shall be provided as shown in Fig. 37.

4.21.5 Controls. Faucets and other controls complying with 4.27.4 shall be located as shown in Fig. 37. In shower stalls 36 in by 36 in (915 mm by 915 mm), all controls, faucets, and the shower unit shall be mounted on the side wall opposite the seat.

4.21.6 Shower Unit. A shower spray unit with a hose at least 60 in (1525 mm) long that can be used as a fixed shower head or as a hand-held shower shall be provided.

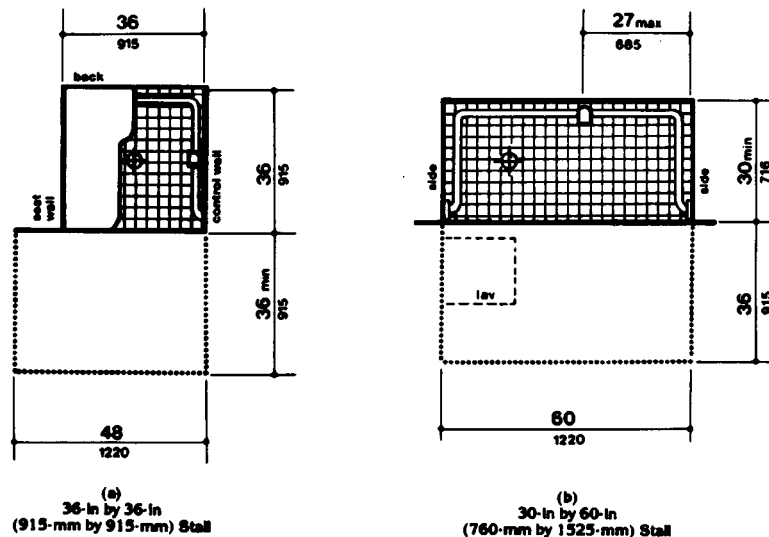
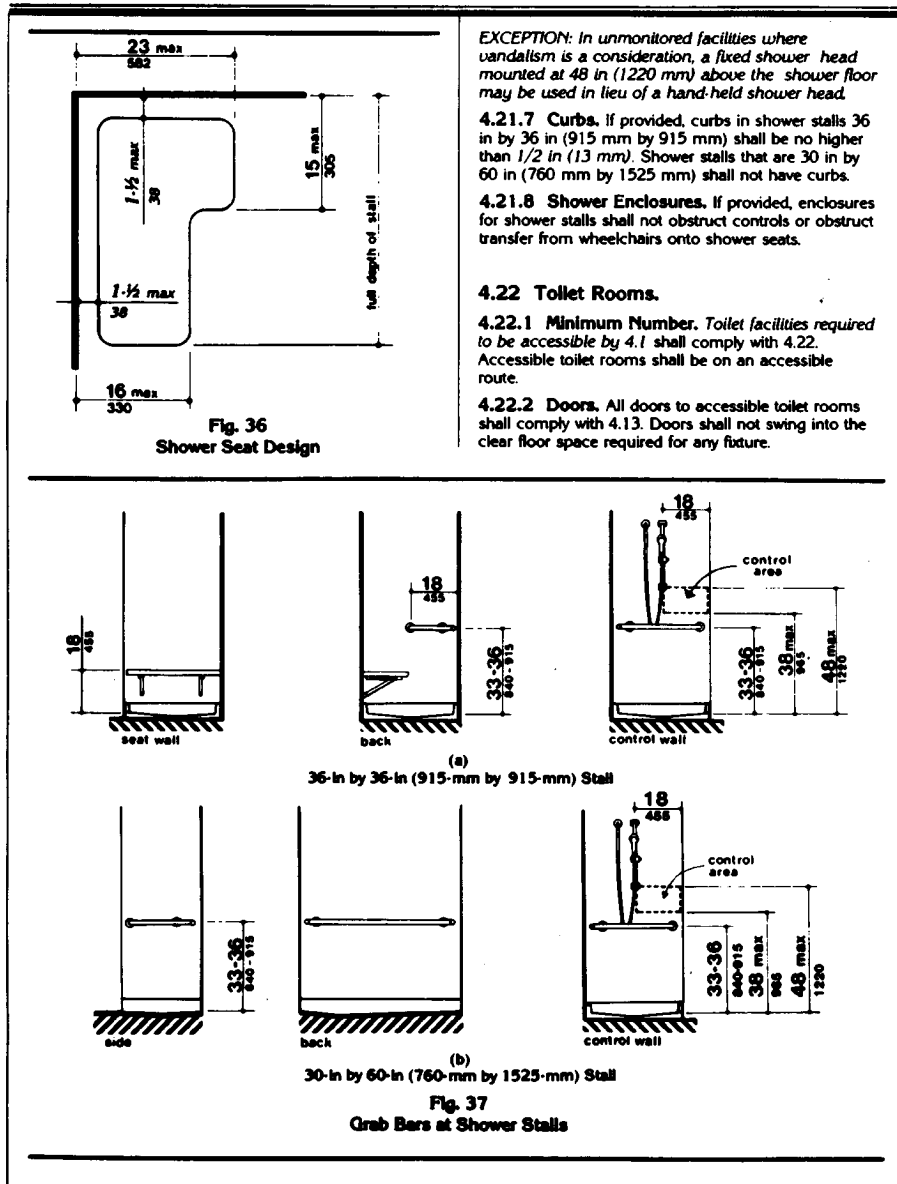


Fig. 35
Shower Size and Clearances

4.22 Toilet Rooms



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4.22 Toilet Rooms

4.22.3 Clear Floor Space. The accessible fixtures and controls required in 4.22.4, 4.22.5, 4.22.6, and 4.22.7 shall be on an accessible route. An unobstructed turning space complying with 4.2.3 shall be provided within an accessible toilet room. The clear floor space at fixtures and controls, the accessible route, and the turning space may overlap.

EXCEPTION: In toilet rooms with only one water closet and one lavatory, a clear floor space of 30 in by 60 in (815 mm by 1525 mm) may be used in lieu of the unobstructed turning space.

4.22.4 Water Closets. If toilet stalls are provided, then at least one shall comply with 4.17; its water closet shall comply with 4.16. If water closets are not in stalls, then at least one shall comply with 4.16.

4.22.5 Urinals. If urinals are provided, then at least one shall comply with 4.18.

4.22.6 Lavatories and Mirrors. If lavatories and mirrors are provided, then at least one of each shall comply with 4.19.

4.22.7 Controls and Dispensers. If controls, dispensers, receptacles, or other equipment is provided, then at least one of each shall be on an accessible route and shall comply with 4.27.

4.23 Bathrooms, Bathing Facilities, and Shower Rooms.

4.23.1 Minimum Number. Bathrooms, bathing facilities, or shower rooms required to be accessible by 4.1 shall comply with 4.23 and shall be on an accessible route. For adaptable bathrooms in accessible dwelling units, see 4.34.5.

4.23.2 Doors. Doors to accessible bathrooms shall comply with 4.13. Doors shall not swing into the floor space required for any fixture.

4.23.3 Clear Floor Space. The accessible fixtures and controls required in 4.23.4, 4.23.5, 4.23.6, 4.23.7, 4.23.8, and 4.23.9 shall be on an accessible route. An unobstructed turning space complying with 4.2.3 shall be provided within an accessible bathroom. The clear floor spaces at fixtures and controls, the accessible route, and the turning space may overlap.

EXCEPTION: In bathrooms with only one water closet, one lavatory, and one bathtub or shower, a clear floor space of 30 in by 60 in (760 mm by 1525 mm) may be used in lieu of the unobstructed turning space.

4.23.4 Water Closets. If toilet stalls are provided, then at least one shall comply with 4.17; its water closet shall comply with 4.16. If water closets are not in stalls, then at least one shall comply with 4.16.

4.23.5 Urinals. If urinals are provided, then at least one shall comply with 4.18.

4.23.6 Lavatories and Mirrors. If lavatories and mirrors are provided, then at least one of each shall comply with 4.19.

4.23.7 Controls and Dispensers. If controls, dispensers, receptacles, or other equipment is provided, then at least one of each shall be on an accessible route and shall comply with 4.27.

4.23.8 Bathing and Shower Facilities. If tubs or showers are provided, then at least one accessible tub that complies with 4.20 or at least one accessible shower that complies with 4.21 shall be provided.

4.23.9* Medicine Cabinets. If medicine cabinets are provided, at least one shall be located with a usable shelf no higher than 44 in (1120 mm) above the floor space. The floor space shall comply with 4.2.4.

4.24 Sinks.

4.24.1 General. Sinks required to be accessible by 4.1 shall comply with 4.24. Sinks in kitchens of accessible dwelling units shall comply with 4.34.6.5.

4.24.2 Height. Sinks shall be mounted with the counter or rim no higher than 34 in (865 mm) from the floor.

4.24.3 Knee Clearance. Knee clearance that is at least 27 in (685 mm) high, 30 in (760 mm) wide, and 19 in (485 mm) deep shall be provided underneath sinks.

4.24.4 Depth. Each sink shall be a maximum of 6-1/2 in (165 mm) deep.

4.24.5 Clear Floor Space. A clear floor space at least 30 in by 48 in (760 mm by 1220 mm) complying with 4.2.4 shall be provided in front of a sink to allow forward approach. The clear floor space shall be on an accessible route and shall extend a maximum of 19 in (485 mm) underneath the sink (see Fig. 32).

4.24.6 Exposed Pipes and Surfaces. Hot water and drain pipes exposed under sinks shall be insulated or otherwise covered. There shall be no sharp or abrasive surfaces under sinks.

4.24.7 Faucets. Faucets shall comply with 4.27.4. Lever-operated, push-type, touch-type, or electronically controlled mechanisms are acceptable designs.

4.25 Storage.

4.25.1 General. Fixed storage facilities such as cabinets, shelves, closets, and drawers required to be accessible by 4.1 shall comply with 4.25.

4.25.2 Clear Floor Space. A clear floor space at least 30 in by 48 in (760 mm by 1220 mm) complying with 4.2.4 that allows either a forward or parallel approach by a person using a wheelchair shall be provided at accessible storage facilities.

4.25.3 Height. Accessible storage spaces shall be within at least one of the reach ranges specified in 4.2.5 and 4.2.6. Clothes rods shall be a maximum of 54 in (1370 mm) from the floor (see Fig. 38).

4.25.4 Hardware. Hardware for accessible storage facilities shall comply with 4.27.4. Touch latches and U-shaped pulls are acceptable.

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4.28 Alarms

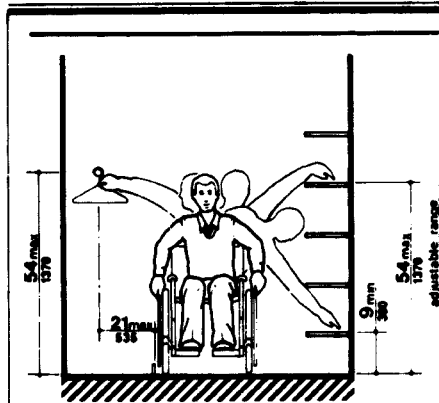


Fig. 38
Storage Shelves and Closets

4.26 Handrails, Grab Bars, and Tub and Shower Seats.

4.26.1* General. All handrails, grab bars, and tub and shower seats required to be accessible by 4.1, 4.8, or 4.9 shall comply with 4.26.

4.26.2* Size and Spacing of Grab Bars and Handrails. The diameter or width of the gripping surfaces of a handrail or grab bar shall be 1-1/4 in to 1-1/2 in (32 mm to 38 mm), or the shape shall provide an equivalent gripping surface. If handrails or grab bars are mounted adjacent to a wall, the space between the wall and the grab bar shall be 1-1/2 in (38 mm) (see Fig. 39(a), (b), and (c)). Handrails may be located in a recess if the recess is a maximum of 3 in (75 mm) deep and extends at least 18 in (455 mm) above the top of the rail (see Fig. 39(d)).

4.26.3 Structural Strength. The structural strength of grab bars, tub and shower seats, fasteners, and mounting devices shall meet the following specification:

- (1) Bending stress in a grab bar or seat induced by the maximum bending moment from the application of 250 lbf (1112N) shall be less than the allowable stress for the material of the grab bar or seat.
- (2) Shear stress induced in a grab bar or seat by the application of 250 lbf (1112N) shall be less than the allowable shear stress for the material of the grab bar or seat. If the connection between the grab bar or seat and its mounting bracket or other support is considered to be fully restrained, then direct and torsional shear stresses shall be totaled for the combined shear stress, which shall not exceed the allowable shear stress.

(3) Shear force induced in a fastener or mounting device from the application of 250 lbf (1112N) shall be less than the allowable lateral load of either the fastener or mounting device or the supporting structure, whichever is the smaller allowable load.

(4) Tensile force induced in a fastener by a direct tension force of 250 lbf (1112N) plus the maximum moment from the application of 250 lbf (1112N) shall be less than the allowable withdrawal and the supporting structure.

(5) Grab bars shall not rotate within their fittings.

4.26.4 Eliminating Hazards. A handrail or grab bar and any wall or other surface adjacent to it shall be free of any sharp or abrasive elements. Edges shall have a minimum radius of 1/8 in (3.2 mm).

4.27 Controls and Operating Mechanisms.

4.27.1 General. Controls and operating mechanisms required to be accessible by 4.1 shall comply with 4.27.

4.27.2 Clear Floor Space. Clear floor space complying with 4.2.4 that allows a forward or a parallel approach by a person using a wheelchair shall be provided at controls, dispensers, receptacles, and other operable equipment.

4.27.3* Height. The highest operable part of all controls, dispensers, receptacles, and other operable equipment shall be placed within at least one of the reach ranges specified in 4.2.5 and 4.2.6. Except where the use of special equipment dictates otherwise, electrical and communications system receptacles on walls shall be mounted no less than 15 in (380 mm) above the floor.

4.27.4 Operation. Controls and operating mechanisms shall be operable with one hand and shall not require tight grasping, pinching, or twisting of the wrist. The force required to activate controls shall be no greater than 5 lbf (22.2 N).

4.28 Alarms.

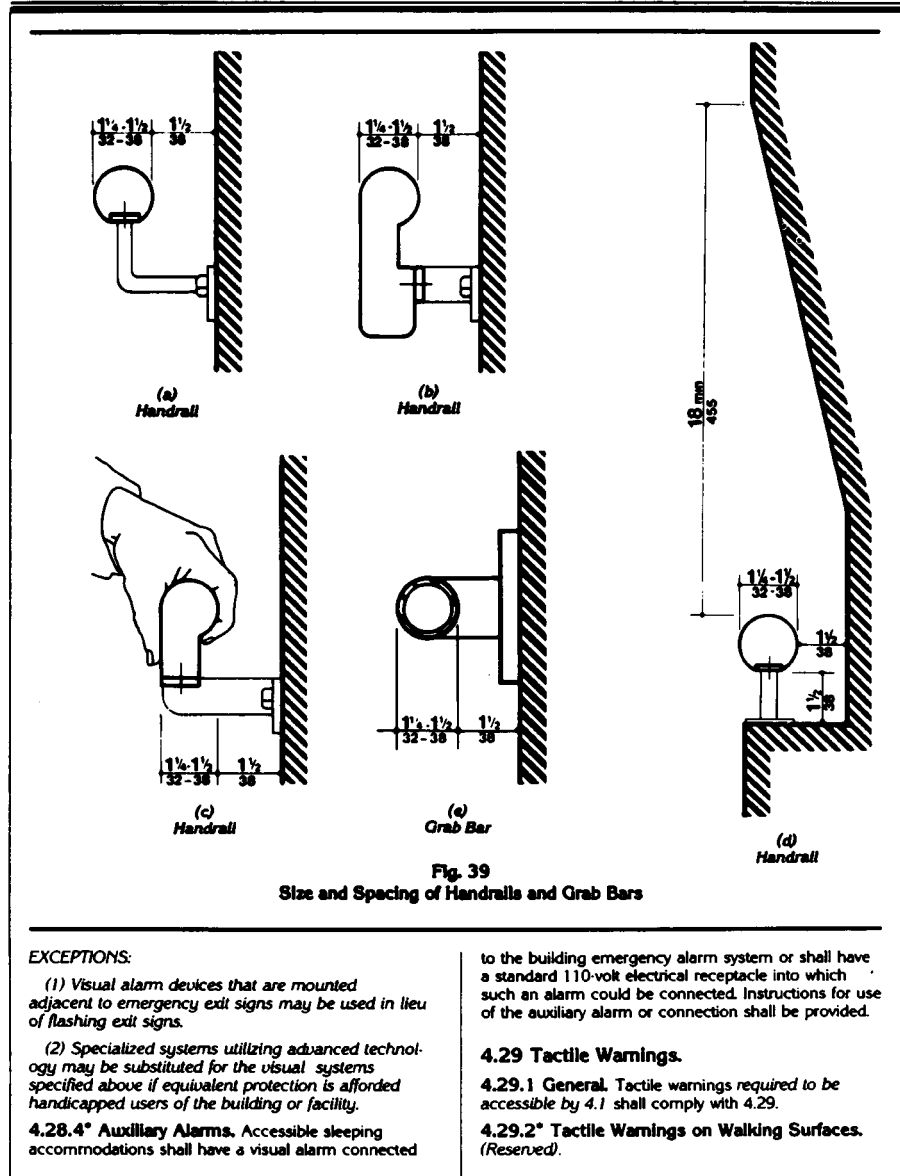
4.28.1 General. Alarm systems required to be accessible by 4.1 shall comply with 4.28.

4.28.2* Audible Alarms. If provided, audible emergency alarms shall produce a sound that exceeds the prevailing equivalent sound level in the room or space by at least 15 decibels or exceeds any maximum sound level with a duration of 30 seconds by 5 decibels, whichever is louder. Sound levels for alarm signals shall not exceed 120 decibels.

4.28.3* Visual Alarms. If provided, electrically powered internally illuminated emergency exit signs shall flash as a visual emergency alarm in conjunction with audible emergency alarms. The flashing frequency of visual alarm devices shall be less than 5 Hz. If such alarms use electricity from the building as a power source, then they shall be installed on the same system as the audible emergency alarms.

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4.28 Alarms

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4.31 Telephones

4.29.3* Tactile Warnings on Doors to Hazardous Areas. Doors that lead to areas that might prove dangerous to a blind person (for example, doors to loading platforms, boiler rooms, stages, and the like) shall be made identifiable to the touch by a textured surface on the door handle, knob, pull, or other operating hardware. This textured surface may be made by knurling or roughing or by a material applied to the contact surface. Such textured surfaces shall not be provided for emergency exit doors or any doors other than those to hazardous areas.

4.29.4 Tactile Warnings at Stairs. *(Reserved).*

4.29.5* Tactile Warnings at Hazardous Vehicular Areas. *(Reserved).*

4.29.6* Tactile Warnings at Reflecting Pools. *(Reserved).*

4.29.7* Standardization. Textured surfaces for tactile door warnings shall be standard within a building, facility, site, or complex of buildings.

4.30 Signage.

4.30.1* General. *Signage shall comply with 4.30 as specified in 4.1.*

4.30.2* Character Proportion. Letters and numbers on signs shall have a width-to-height ratio between 3:5 and 1:1 and a stroke width-to-height ratio between 1:5 and 1:10.

4.30.3* Color Contrast. Characters and symbols shall contrast with their background — either light characters on a dark background or dark characters on a light background.

4.30.4* Raised Characters or Symbols. Letters and numbers on signs shall be raised 1/32 in (0.8 mm) minimum and shall be sans serif characters. Raised characters or symbols shall be at least 5/8 in (16 mm) high, but no higher than 2 in (50 mm). Symbols or pictographs on signs shall be raised 1/32 in (0.8 mm) minimum.

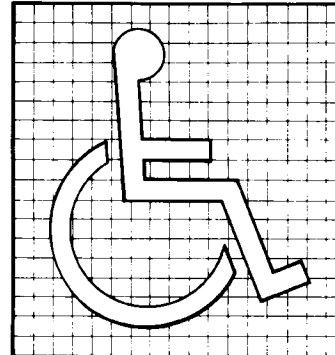
4.30.5 Symbols of Accessibility. Accessible facilities required to be identified by 4.1, shall use the international symbol of accessibility. The symbol shall be displayed as shown in Fig. 43.

4.30.6 Mounting Location and Height. Interior signage shall be located alongside the door on the latch side and shall be mounted at a height of between 54 in and 66 in (1370 mm and 1675 mm) above the finished floor.

4.31 Telephones.

4.31.1 General. *Public telephones required to be accessible by 4.1 shall comply with 4.31.*

4.31.2 Clear Floor or Ground Space. A clear floor or ground space at least 30 in by 48 in (760 mm by 1220 mm) that allows either a forward or parallel approach by a person using a wheelchair shall be provided at telephones (see Fig. 44). The clear floor or



(a)
Proportions



(b)
Display Conditions

Fig. 43
International Symbol of Accessibility

ground space shall comply with 4.2.4. Bases, enclosures, and fixed seats shall not impede approaches to telephones by people who use wheelchairs.

4.31.3* Mounting Height. The highest operable part of the telephone shall be within the reach ranges specified in 4.2.5 or 4.2.6.

4.31.4 Protruding Objects. *Telephones shall comply with 4.4.*

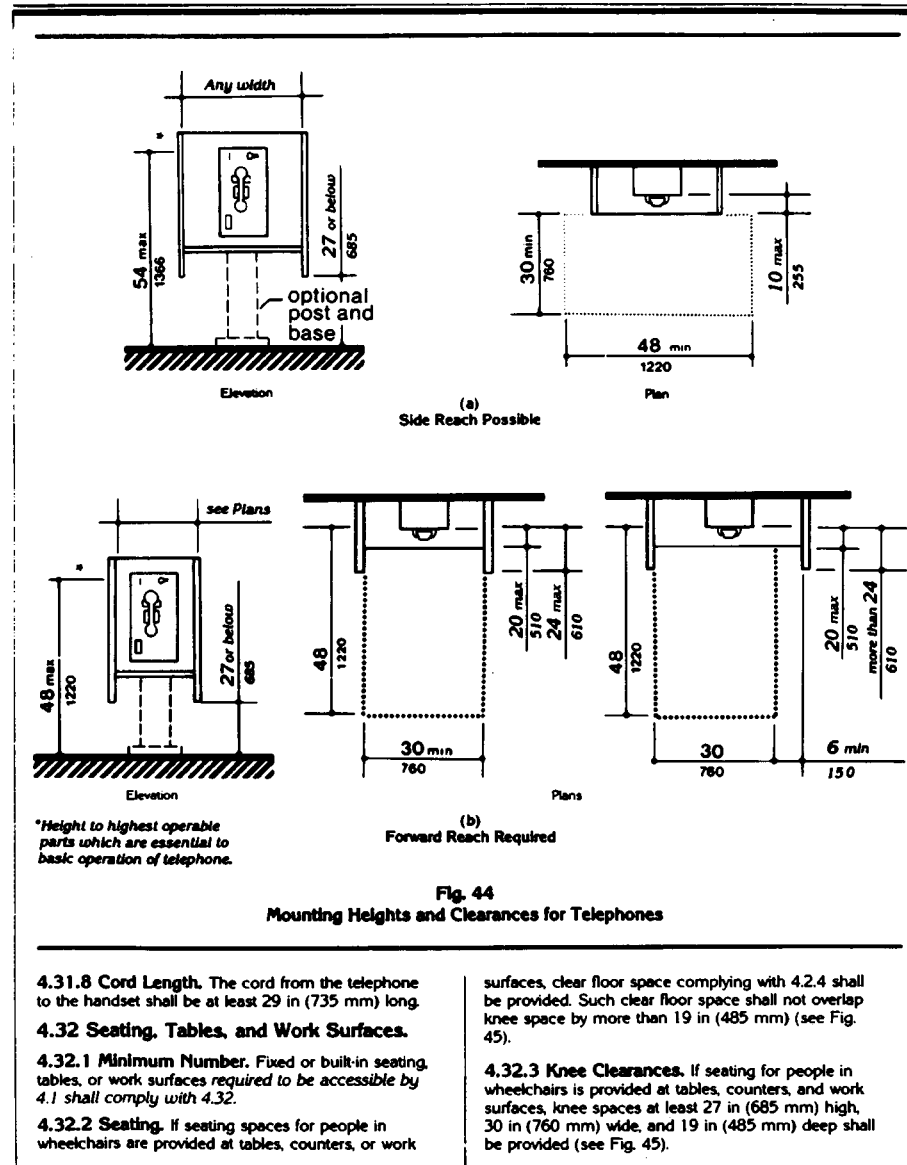
4.31.5* Equipment for Hearing Impaired People. Telephones shall be equipped with a receiver that generates a magnetic field in the area of the receiver cap. Volume controls shall be provided in accordance with 4.1.2.

4.31.6 Controls. Telephones shall have pushbutton controls where service for such equipment is available.

4.31.7 Telephone Books. Telephone books, if provided, shall be located in a position that complies with the reach ranges specified in 4.2.5 and 4.2.6.

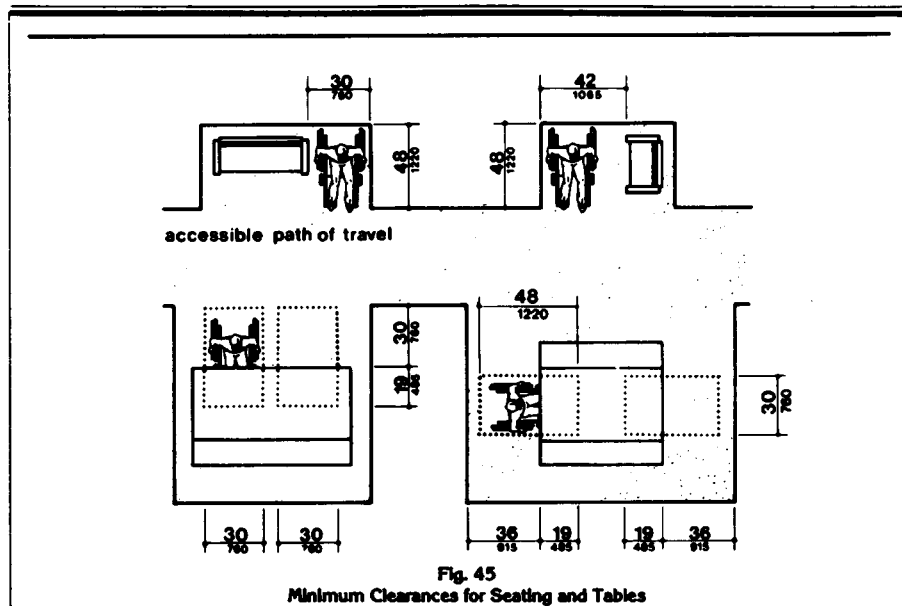
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4.31 Telephones

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4.34 Dwelling Units



4.32.4* Height of Work Surfaces. The tops of tables and work surfaces shall be from 28 in to 34 in (710 mm to 865 mm) from the floor or ground.

4.33 Assembly Areas.

4.33.1 Minimum Number. Assembly and associated areas required to be accessible by 4.1 shall comply with 4.33.

4.33.2* Size of Wheelchair Locations. Each wheelchair location shall provide minimum clear ground or floor spaces as shown in Fig. 46.

4.33.3* Placement of Wheelchair Locations. Wheelchair areas shall be an integral part of any fixed seating plan and shall be dispersed throughout the seating area. They shall adjoin an accessible route that also serves as a means of egress in case of emergency and shall be located to provide lines of sight comparable to those for all viewing areas.

EXCEPTION: Accessible viewing positions may be clustered for bleachers, balconies, and other areas having sight lines that require slopes of greater than 5 percent. Equivalent accessible viewing positions may be located on levels having accessible egress.

4.33.4 Surfaces. The ground or floor at wheelchair locations shall be level and shall comply with 4.5.

4.33.5 Access to Performing Areas. An accessible route shall connect wheelchair seating locations with performing areas, including stages, arena floors, dressing rooms, locker rooms, and other spaces used by performers.

4.33.6* Placement of Listening Systems. If the listening system provided serves individual fixed seats, then such seats shall be located within a 50 ft (15 m) viewing distance of the stage or playing area and shall have a complete view of the stage or playing area.

4.33.7* Types of Listening Systems. Audio loops and radio frequency systems are two acceptable types of listening systems.

4.34 Dwelling Units.

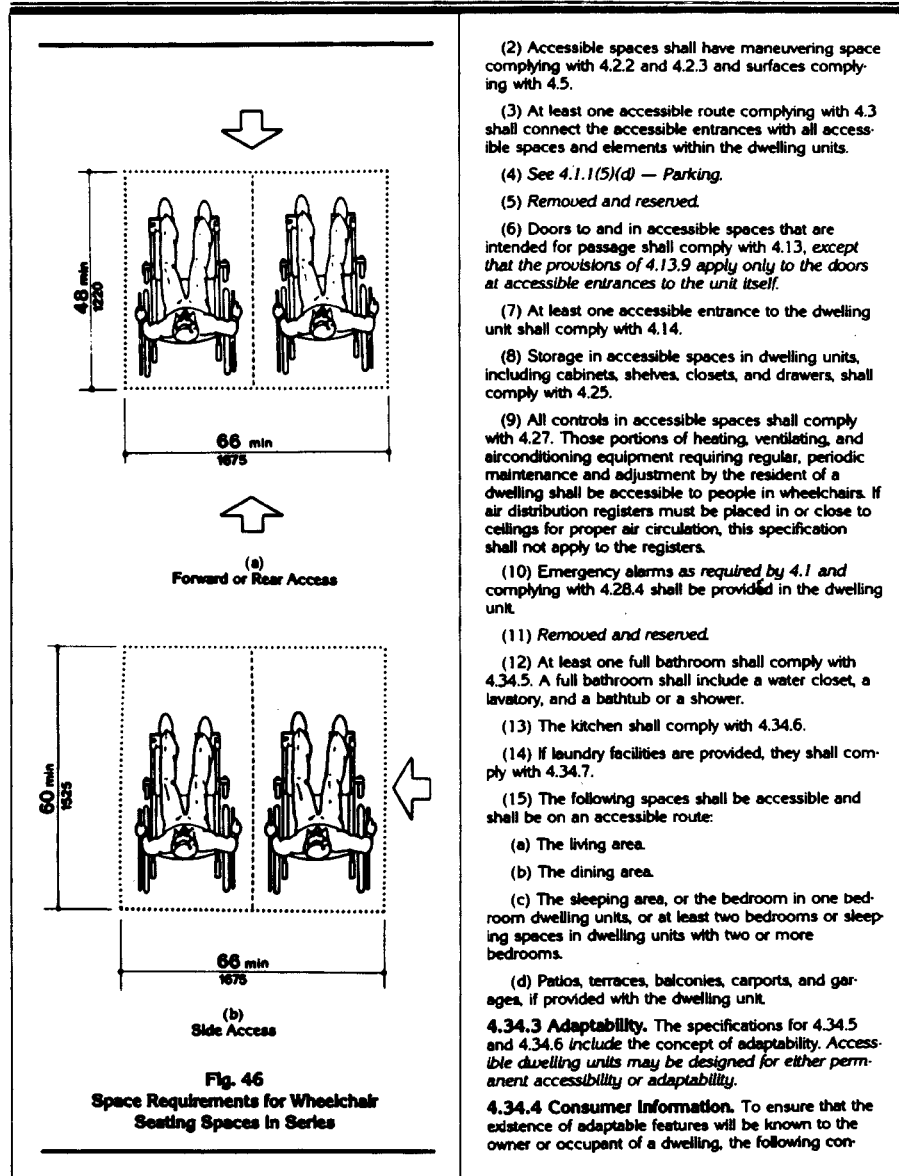
4.34.1 General. The requirements of 4.34 apply to dwelling units required to be accessible by 4.1.

4.34.2* Minimum Requirements. An accessible dwelling unit shall be on an accessible route. An accessible dwelling unit shall have the following accessible elements and spaces as a minimum:

(1) Common spaces and facilities serving individual accessible dwelling units (for example, entry walks, trash disposal facilities, and mail boxes) shall comply with 4.2 through 4.33.

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4.34 Dwelling Units

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sumer information shall be provided in each adaptable dwelling unit available for occupancy:

(1) Notification of the alternate heights available for the kitchen counter and sink, and the existence of removable cabinets and bases, if provided, under counters, sinks, and lavatories.

(2) Notification of the provisions for the installation of grab bars at toilets, bathtubs, and showers.

(3) Notification that the dwelling unit is equipped to have a visual emergency alarm installed.

(4) Identification of the location where information and instructions are available for changing the height of counters, removing cabinets and bases, installing a visual emergency alarm system, and installing grab bars.

(5) Notification that the dwelling unit has been designed in accordance with this *Uniform Federal Accessibility Standards*.

In addition, the parties who will be responsible for making adaptations shall be provided with the following information:

(1) Instructions for adjusting or replacing kitchen counter and sink heights and for removing cabinets.

(2) A scale drawing showing methods and locations for the installation of grab bars.

(3) A scale drawing showing the location of adjustable or replaceable counter areas and removable cabinets.

(4) Identification of the location of any equipment and parts required for adjusting or replacing counter tops, cabinets, and sinks.

(5) Instructions for installing a visual emergency alarm system, if the dwelling unit is equipped for such an installation.

4.34.5* Bathrooms. Accessible or adaptable bathrooms shall be on an accessible route and shall comply with the requirements of 4.34.5.

4.34.5.1 Doors. Doors shall not swing into the clear floor space required for any fixture.

4.34.5.2 Water Closets.

(1) Clear floor space at the water closet shall be as shown in Fig. 47(a). The water closet may be located with the clear area at either the right or left side of the toilet.

(2) The height of the water closet shall be at least 15 in (380 mm), and no more than 19 in (485 mm), measured to the top of the toilet seat.

(3) Structural reinforcement or other provisions that will allow installation of grab bars shall be provided in the locations shown in Fig. 47(b). If provided, grab bars shall be installed as shown in Fig. 29 and shall comply with 4.26.

(4) The toilet paper dispenser shall be installed within reach as shown in Fig. 47(b).

4.34.5.3 Lavatory, Mirrors, and Medicine Cabinets.

(1) The lavatory and mirrors shall comply with 4.22.6.

(2) If a cabinet is provided under the lavatory in adaptable bathrooms, then it shall be removable to provide the clearances specified in 4.22.6.

(3) If a medicine cabinet is provided above the lavatory, then the bottom of the medicine cabinet shall be located with a usable shelf no higher than 44 in (1120 mm) above the floor.

4.34.5.4 Bathtubs. If a bathtub is provided, then it shall have the following features:

(1) Floor space. Clear floor space at bathtubs shall be as shown in Fig. 33.

(2) Seat. An in-tub seat or a seat at the head end of the tub shall be provided as shown in Fig. 33 and 34. The structural strength of seats and their attachments shall comply with 4.26.3. Seats shall be mounted securely and shall not slip during use.

(3) Grab bars. Structural reinforcement or other provisions that will allow installation of grab bars shall be provided in the locations shown in Fig. 48. If provided, grab bars shall be installed as shown in Fig. 34 and shall comply with 4.26.

(4) Controls. Faucets and other controls shall be located as shown in Fig. 34 and shall comply with 4.27.4.

(5) Shower unit. A shower spray unit with a hose at least 60 in (1525 mm) long that can be used as a fixed shower head or as a hand-held shower shall be provided.

4.34.5.5 Showers. If a shower is provided, it shall have the following features:

(1) Size and clearances. Shower stall size and clear floor space shall comply with either Fig. 35(a) or (b). The shower stall in Fig. 35(a) shall be 36 in by 36 in (915 mm by 915 mm). The shower stall in Fig. 35(b) will fit into the same space as a standard 60 in (1525 mm) long bathtub.

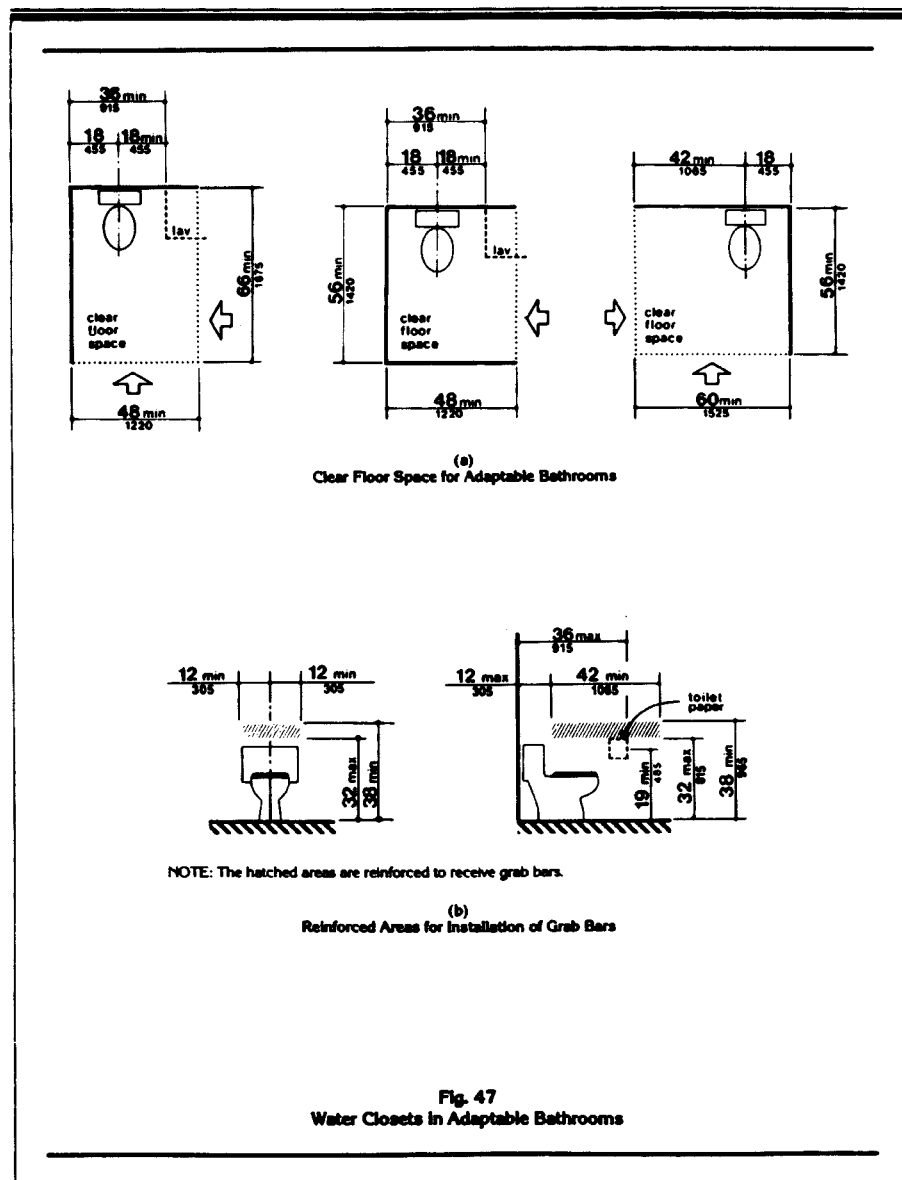
(2) Seat. A seat shall be provided in the shower stall in Fig. 35(a) as shown in Fig. 36. The seat shall be 17 in to 19 in (430 mm to 485 mm) high measured from the bathroom floor and shall extend the full depth of the stall. The seat shall be on the wall opposite the controls. The structural strength of seats and their attachments shall comply with 4.26.3. Seats shall be mounted securely and shall not slip during use.

(3) Grab bars. Structural reinforcement or other provisions that will allow installation of grab bars shall be provided in the locations shown in Fig. 49. If provided, grab bars shall be installed as shown in Fig. 37 and shall comply with 4.26.

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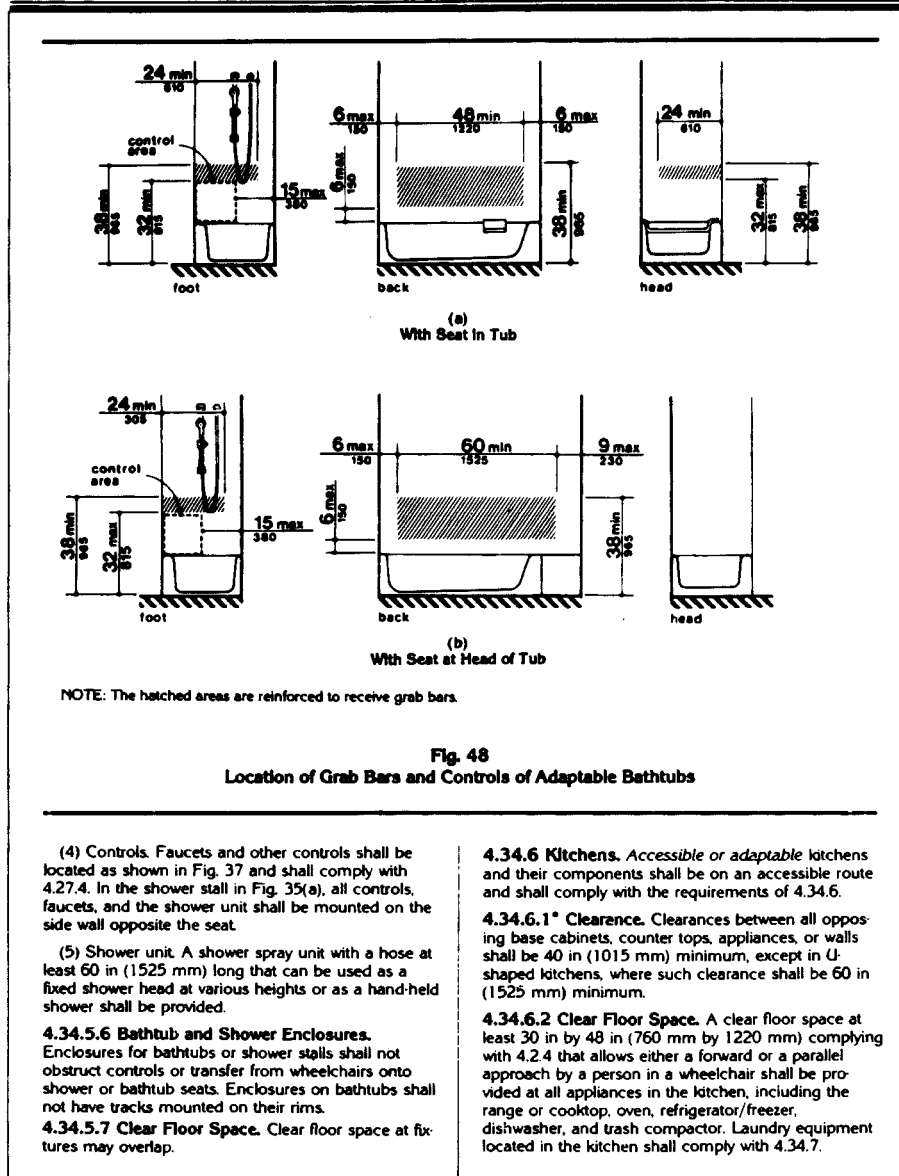
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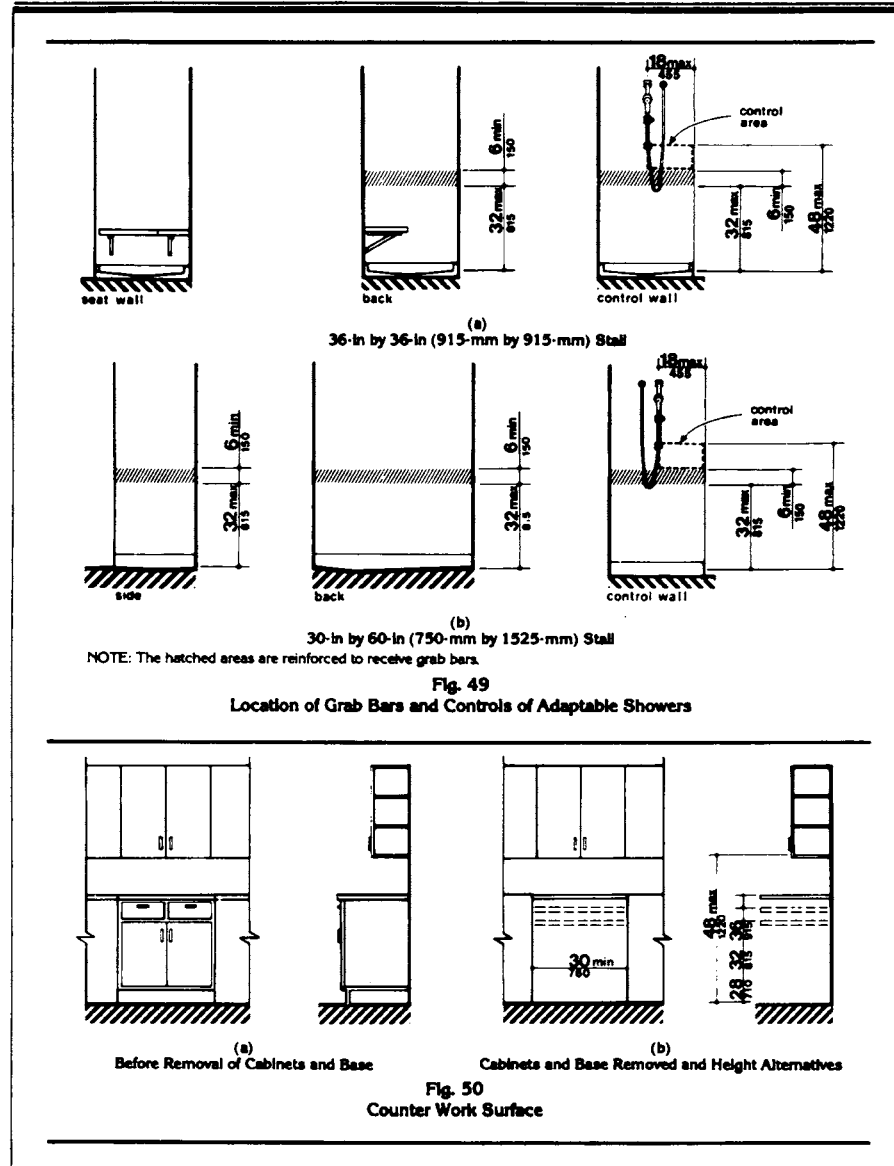


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4.34.6.3 Controls. All controls in kitchens shall comply with 4.27.

4.34.6.4 Work Surfaces. At least one 30 in (760 mm) section of counter shall provide a work surface that complies with the following requirements (see Fig. 50):

(1) The counter shall be mounted at a maximum height of 34 in (865 mm) above the floor, measured from the floor to the top of the counter surface, or shall be adjustable or replaceable as a unit to provide alternative heights of 28 in, 32 in, and 36 in (710 mm, 815 mm, and 915 mm), measured from the top of the counter surface.

(2) Base cabinets, if provided, shall be removable under the full 30 in (760 mm) minimum frontage of the counter. The finished floor shall extend under the counter to the wall.

(3) Counter thickness and supporting structure shall be 2 in (50 mm) maximum over the required clear area.

(4) A clear floor space 30 in by 48 in (760 mm by 1220 mm) shall allow a forward approach to the counter. Nineteen inches (485 mm) maximum of the clear floor space may extend underneath the counter. The knee space shall have a minimum clear width of 30 in (760 mm) and a minimum clear depth of 19 in (485 mm).

(5) There shall be no sharp or abrasive surfaces under such counters.

4.34.6.5* Sink. The sink and surrounding counter shall comply with the following requirements (see Fig. 51):

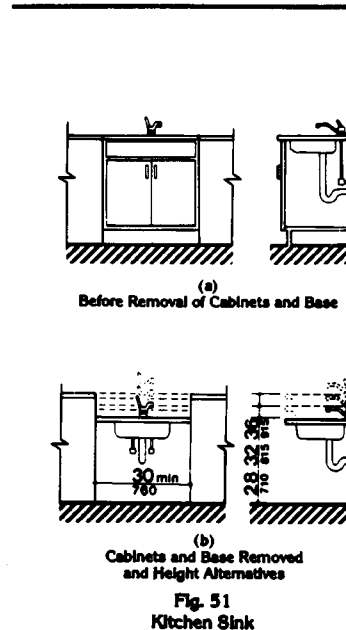
(1) The sink and surrounding counter shall be mounted at a maximum height of 34 in (865 mm) above the floor, measured from the floor to the top of the counter surface, or shall be adjustable or replaceable as a unit to provide alternative heights of 28 in, 32 in, and 36 in (710 mm, 815 mm, and 915 mm), measured from the floor to the top of the counter surface or sink rim. The total width of sink and counter area shall be 30 in (760 mm).

(2) Rough-in plumbing shall be located to accept connections of supply and drain pipes for sinks mounted at the height of 28 in (710 mm).

(3) The depth of a sink bowl shall be no greater than 6-1/2 in (165 mm). Only one bowl of double- or triple-bowl sinks needs to meet this requirement.

(4) Faucets shall comply with 4.27.4. Lever-operated or push-type mechanisms are two acceptable designs.

(5) Base cabinets, if provided, shall be removable under the full 30 in (760 mm) minimum frontage of the sink and surrounding counter. The finished flooring shall extend under the counter to the wall.



(6) Counter thickness and supporting structure shall be 2 in (50 mm) maximum over the required clear space.

(7) A clear floor space 30 in by 48 in (760 mm by 1220 mm) shall allow forward approach to the sink. Nineteen inches (485 mm) maximum of the clear floor space may extend underneath the sink. The knee space shall have a clear width of 30 in (760 mm) and a clear depth of 19 in (485 mm).

(8) There shall be no sharp or abrasive surfaces under sinks. Hot water and drain pipes under sinks shall be insulated or otherwise covered.

4.34.6.6* Ranges and Cooktops. Ranges and cooktops shall comply with 4.34.6.2 and 4.34.6.3. If ovens or cooktops have knee spaces underneath, then they shall be insulated or otherwise protected on the exposed contact surfaces to prevent burns, abrasions, or electrical shock. The clear floor space may overlap the knee space, if provided, by 19 in (485 mm) maximum. The location of controls for ranges and cooktops shall not require reaching across burners.

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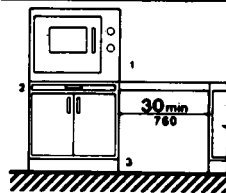
4.34 Dwelling Units

4.34.6.7* Ovens. Ovens shall comply with 4.34.6.2 and 4.34.6.3. Ovens shall be of the self-cleaning type or be located adjacent to an adjustable height counter with knee space below (see Fig. 52). For side-opening ovens, the door latch side shall be next to the open counter space, and there shall be a pull-out shelf under the oven extending the full width of the oven and pulling out not less than 10 in (255 mm) when fully extended. Ovens shall have controls on front panels; they may be located on either side of the door.

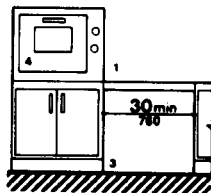
4.34.6.8* Refrigerator/Freezers. Refrigerator/freezers shall comply with 4.34.6.3. Provision shall be made for refrigerators which are:

- (1) Of the vertical side-by-side refrigerator/freezer type; or
- (2) Of the over-and-under type and meet the following requirements:

- (a) Have at least 50 percent of the freezer space below 54 in (1370 mm) above the floor.



(a)
Side-Hinged Door



(b)
Bottom-Hinged Door

SYMBOL KEY:

1. Countertop or wall-mounted oven.
2. Pull-out board preferred with side-opening door.
3. Clear open space.
4. Bottom-hinged door.

Fig. 52
Ovens without Self-Cleaning Feature

- (b) Have 100 percent of the refrigerator space and controls below 54 in (1370 mm).

Freezers with less than 100 percent of the storage volume within the limits specified in 4.2.5 or 4.2.6 shall be the self-defrosting type.

4.34.6.9 Dishwashers. Dishwashers shall comply with 4.34.6.2 and 4.34.6.3. Dishwashers shall have all rack space accessible from the front of the machine for loading and unloading dishes.

4.34.6.10* Kitchen Storage. Cabinets, drawers, and shelf areas shall comply with 4.2.5 and shall have the following features:

- (1) Maximum height shall be 48 in (1220 mm) for at least one shelf of all cabinets and storage shelves mounted above work counters (see Fig. 50).

- (2) Door pulls or handles for wall cabinets shall be mounted as close to the bottom of cabinet doors as possible. Door pulls or handles for base cabinets shall be mounted as close to the top of cabinet doors as possible.

4.34.7 Laundry Facilities. If laundry equipment is provided within individual accessible dwelling units, or if separate laundry facilities serve one or more accessible dwelling units, then they shall meet the requirements of 4.34.7.1 through 4.34.7.3.

4.34.7.1 Location. Laundry facilities and laundry equipment shall be on an accessible route.

4.34.7.2 Washing Machines and Clothes Dryers. Washing machines and clothes dryers in common use laundry rooms shall be front loading.

4.34.7.3 Controls. Laundry equipment shall comply with 4.2.7.

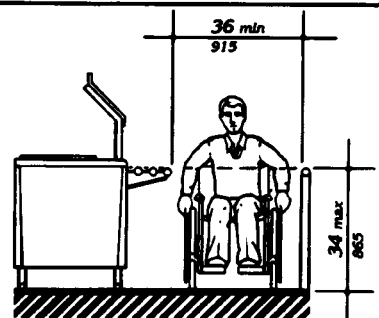


Fig. 53
Food Service Lines

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7.0 Mercantile

5. RESTAURANTS AND CAFETERIAS.

5.1 General. In addition to the requirements of 4.1 to 4.33, the design of at least 5 percent of all fixed seating or tables in a restaurant or cafeteria shall comply with 4.32. Access aisles between tables shall comply with 4.3. Where practical, accessible tables should be distributed throughout the space or facility. In restaurants or cafeterias where there are mezzanine levels, loggias, or raised platforms, accessibility to all such spaces is not required providing that the same services and decorative character are provided in spaces located on accessible routes.

5.2 Food Service Lines. Food service lines shall have a minimum clear width of 36 in (915 mm), with a preferred clear width of 42 in (1065 mm) where passage of stopped wheelchairs by pedestrians is desired. Tray slides shall be mounted no higher than 34 in (865 mm) above the floor. If self-service shelves are provided, a reasonable portion must be within the ranges shown in Fig. 53.

5.3 Tableware Areas. Install tableware, dishware, condiment, food and beverage display shelves, and dispensing devices in compliance with 4.2 (see Fig. 54).

5.4 Vending Machines. Install vending machines in compliance with 4.27.

6. HEALTH CARE.

6.1 General. In addition to the requirements of 4.1 to 4.33, Health Care buildings and facilities shall comply with 6.

6.2 Entrances. At least one accessible entrance that complies with 4.14 shall be protected from the

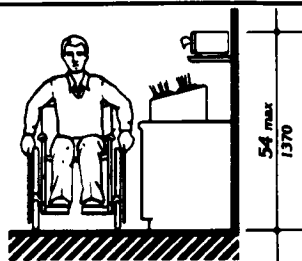


Fig. 54
Tableware Areas

weather by canopy or roof overhang. Such entrances shall incorporate a passenger loading zone that complies with 4.6.5 (see 4.13.6).

6.3 Patient Bedrooms. Provide accessible patient bedrooms in compliance with 4. Accessible patient bedrooms shall comply with the following:

(1) Each bedroom shall have a turning space that complies with 4.2.3, and preferably that is located near the entrance.

(2) Each one-bed room shall have a minimum clear floor space of 36 in (915 mm) along each side of the bed, and 42 in (1065 mm) between the foot of the bed and the wall.

(3) Each two-bed room shall have a minimum clear floor space of 42 in (1065 mm), preferably 48 in (1220 mm), between the foot of the bed and the wall; 36 in (915 mm) between the side of the bed and the wall; and 48 in (1220 mm) between beds.

(4) Each four-bed room shall have a minimum clear floor space of 48 in (1220 mm) from the foot of the bed to the foot of the opposing bed; 36 in (915 mm) between the side of the bed and the wall; and 48 in (1220 mm) between beds.

(5) Each bedroom shall have a door that complies with 4.13.

6.4 Patient Toilet Rooms. Provide each patient bedroom that is required to be accessible with an accessible toilet room that complies with 4.22 or 4.23.

7. MERCANTILE.

7.1 General. In addition to the requirements of 4.1 to 4.33, the design of all areas used for business transactions with the public shall comply with 7.

7.2 Service Counters. Where service counters exceeding 36 in (915 mm) in height are provided for standing sales or distribution of goods to the public, an auxiliary counter or a portion of the main counter shall be provided with a maximum height of between 28 in to 34 in (710 mm to 865 mm) above the floor in compliance with 4.32.4.

7.3 Check-Out Aisles. At least one accessible check-out aisle shall be provided in buildings or facilities with check-out aisles. Clear aisle width shall comply with 4.2.1 and maximum adjoining counter height shall not exceed 36 in (915 mm) above the floor.

7.4 Security Bollards. Any device used to prevent the removal of shopping carts from store premises shall not prevent access or egress to those in wheelchairs. An alternate entry that is equally convenient to that provided for the ambulatory population is acceptable.

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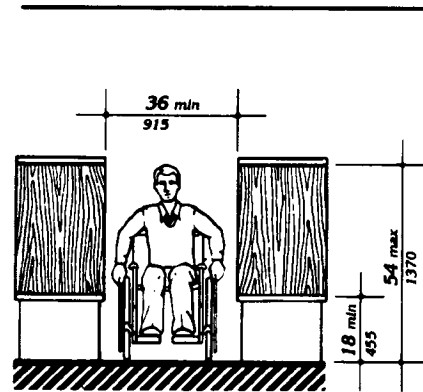
8.0 Libraries

Fig. 55
Card Catalog

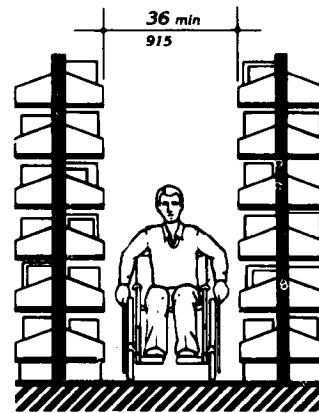


Fig. 56
Stacks

8. LIBRARIES.

8.1 General. In addition to the requirements of 4.1 to 4.33, the design of all public areas of a library shall comply with 8, including reading and study areas, stacks, reference rooms, reserve areas, and special facilities or collections. As provided, elements such as public toilet rooms, telephones, and parking shall be accessible.

8.2 Reading and Study Areas. At least 5 percent or a minimum of one of each element of fixed seating, tables, or study carrels shall comply with 4.2 and 4.32. Clearances between fixed accessible tables and study carrels shall comply with 4.3.

8.3 Check-Out Areas. At least one lane at each check-out area shall comply with 4.32. Any traffic control or book security gates or turnstiles shall comply with 4.13.

8.4 Card Catalogs. Minimum clear aisle space at card catalogs, magazine displays, or reference stacks shall comply with Fig. 55. Maximum reach height shall comply with 4.2, with a height of 48 in (1220 mm) preferred, irrespective of reach allowed.

8.5 Stacks. Minimum clear aisle width between stacks shall comply with 4.3, with a minimum clear aisle width of 42 in (1065 mm) preferred where possible. Shelf height in stack areas is unrestricted (see Fig. 56).

9. POSTAL FACILITIES.

9.1 General. In addition to the requirements of 4.1 to 4.33, the design of U.S. postal facilities shall comply with the requirements of 9. In addition, employee toilet rooms, water fountains, lunchrooms, lounges, attendance-recording equipment, medical treatment rooms, emergency signals, and switches and controls shall be made accessible or adaptable in accordance with the requirements of these standards.

9.2* Post Office Lobbies. Where writing desks or tables are provided, a minimum of at least one writing desk or table that complies with 4.32 must be provided. Clear passageways in front of customer service counters shall be not less than 48 in (1220 mm) clear width to permit maneuvering of a wheelchair. Letter drops shall be mounted at heights that comply with 4.2.

(1) All fixed partitions must be installed to withstand a 250-pound force applied at any point and from any direction. Avoid designs that call for, or may necessitate, non-fixed partitions in circulation routes of handicapped people.

(2) Walls where handrails are provided for handicapped people must be capable of supporting handrails designed to support a 250-pound pull force in any direction.

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9.0 Postal Facilities

9.3 Self-Service Postal Centers. Parcel post depositories, stamp vending machines, multi-commodity vending machines, and currency-coin changing machines shall be installed so that the operating mechanisms of all machines comply with 4.2 and 4.27. All mechanisms must be installed to permit close parallel approach by a wheelchair user.

9.4 Post Office Boxes. At least 5 percent of the post office boxes in a facility shall be accessible to wheelchair users. The total number of accessible post office boxes provided shall include a representative number of each of the standard USPS boxes currently being installed. Accessible post office boxes shall be located in the second or third set of modules from the floor, approximately 12 in to 36 in (305 mm to 915 mm) above the finished floor. Aisles between post office boxes shall be a minimum of 66 in (1675 mm) clear width.

9.5 Locker Rooms. Lockers in easily accessible areas must be provided for use by handicapped

people. When double-tier lockers are used, only the bottom row of lockers may be assigned for use by wheelchair users. When full length lockers are used, all hooks, shelves, etc., intended for use by people in wheelchairs shall be located no higher than 48 in (1220 mm) above the finished floor. Lockers intended for use by handicapped people shall be equipped with latches and latch handles that comply with 4.27. Unobstructed aisle space in front of lockers used by handicapped people shall be a minimum of 42 in (1065 mm) clear width.

9.6 Attendance-Recording Equipment. Time clocks, card racks, log books, and other work assignment or attendance-recording equipment used by people in wheelchairs must be installed at a height no more than 48 in (1220 mm) above the finished floor. Counter space at check-in areas must be no more than 36 in (915 mm) above the finished floor.

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Appendix

APPENDIX

This appendix contains additional information that should help the designer to understand the minimum requirements of the standard or to design buildings or facilities for greater accessibility. The paragraph numbers correspond to the sections or paragraphs of the standard to which the material relates and are therefore not consecutive (for example, A4.2.1 contains additional information relevant to 4.2.1). Sections for which additional material appears in this appendix have been indicated by an asterisk.

A4.2 Space Allowances and Reach Ranges.**A4.2.1 Wheelchair Passage Width.**

(1) Space Requirements for Wheelchairs. Most wheelchair users need a 30 in (760 mm) clear opening width for doorways, gates, and the like, when the latter are entered head-on. If the wheelchair user is unfamiliar with a building, if competing traffic is heavy, if sudden or frequent movements are needed, or if the wheelchair must be turned at an opening, then greater clear widths are needed. For most situations, the addition of an inch of leeway on either side is sufficient. Thus, a minimum clear width of 32 in (815 mm) will provide adequate clearance. However, when an opening or a restriction in a passageway is more than 24 in (610 mm) long, it is essentially a passageway and must be at least 36 in (915 mm) wide.

(2) Space Requirements for Use of Walking Aids. Although people who use walking aids can maneuver through clear width openings of 32 in (815 mm), they need 36 in (915 mm) wide passageways and walks for comfortable gaits. Crutch tips, often extending down at a wide angle, are a hazard in narrow passageways where they might not be seen by other pedestrians. Thus, the 36 in (915 mm) width provides a safety allowance both for the disabled person and for others.

(3) Space Requirements for Passing. Able-bodied people in winter clothing, walking straight ahead with arms swinging, need 32 in (815 mm) of width, which includes 2 in (50 mm) on either side for sway, and another 1 in (25 mm) tolerance on either side for clearing nearby objects or other pedestrians. Almost all wheelchair users and those who use walking aids can also manage within this 32 in (815 mm) width for short distances. Thus, two streams of traffic can pass in 64 in (1625 mm) in a comfortable flow. Sixty inches (1525 mm) provide a minimum width for a somewhat more restricted flow. If the clear width is less than 60 in (1525 mm), two wheelchair users will not be able to pass but will have to seek a wider place for passing. Forty-eight inches (1220 mm) is the minimum width needed for an ambulatory person to pass a nonambulatory or semiambulatory person. Within this 48 in (1220 mm) width, the ambulatory person will have to twist to pass a wheelchair user, a person with a

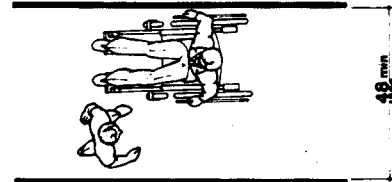


Fig. A1
Minimum Passage Width for One Wheelchair and One Ambulatory Person

seeing eye dog, or a semiambulatory person. There will be little leeway for swaying or missteps (see Fig. A1).

A4.2.3 Wheelchair Turning Space. This standard specifies a minimum space of 60 in (1525 mm) diameter for a pivoting 180-degree turn of a wheelchair. This space is usually satisfactory for turning around, but many people will not be able to turn without repeated tries and bumping into surrounding objects. The space shown in Fig. A2 will allow most wheelchair users to complete U-turns without difficulty.

A4.2.4 Clear Floor or Ground Space for Wheelchairs. The wheelchair and user shown in Fig. A3 represent typical dimensions for a large adult male. The space requirements in this standard are based upon maneuvering clearances that will accommodate most larger wheelchairs. Fig. A3 provides a uniform reference for design not covered by this standard.

A4.2.5 & A4.2.6 Reach. Reach ranges for persons seated in wheelchairs may be further clarified by Fig. A3(a). These drawings approximate in the plan view information shown in Fig. 4, 5, and 6 in other views.

A4.3 Accessible Route.**A4.3.1 General.**

(1) Travel Distances. Many disabled people can move at only very slow speeds; for many, traveling 200 ft (61 m) could take about 2 minutes. This assumes a rate of about 1.5 ft/s (455 mm/s) on level ground. It also assumes that the traveler would move continuously. However, on trips over 100 ft (30 m), disabled people are apt to rest frequently, which substantially increases their trip times. Resting periods of 2 minutes for every 100 ft (30 m) can be used to estimate travel times for people with severely limited stamina. In

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A4.4 Protruding Objects

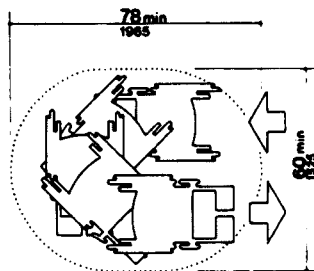
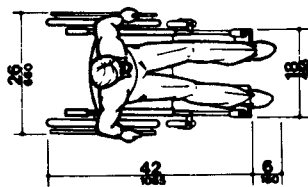
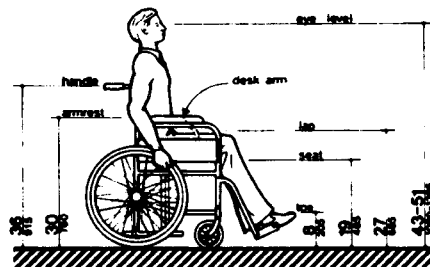


Fig. A2
Space Needed for Smooth U-Turn in a Wheelchair



NOTE: Footrests may extend further for very large people.

Fig. A3
Dimensions of Adult-Sized Wheelchairs

inclement weather, slow progress and resting can greatly increase a disabled person's exposure to the elements.

(2) Sites. Level, indirect routes or those with running slopes lower than 1:20 can sometimes provide more convenience than direct routes with maximum allowable slopes or with ramps.

A4.3.10 Egress. In buildings where physically handicapped people are regularly employed or are residents, an emergency management plan for their evacuation also plays an essential role in fire safety.

A4.4 Protruding Objects.

A4.4.1 General. Guide dogs are trained to recognize and avoid hazards. However, most people with severe impairments of vision use the long cane as an aid to mobility. The two principal cane techniques are the touch technique, where the cane arcs from side to side and touches points outside both shoulders; and the diagonal technique, where the cane is held in a stationary position diagonally across the body with the cane tip touching or just above the

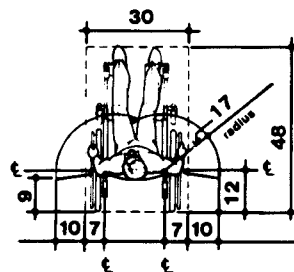
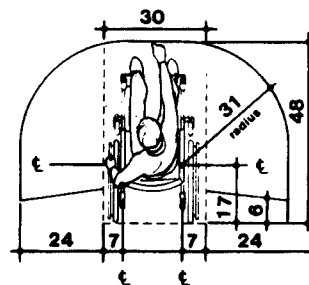
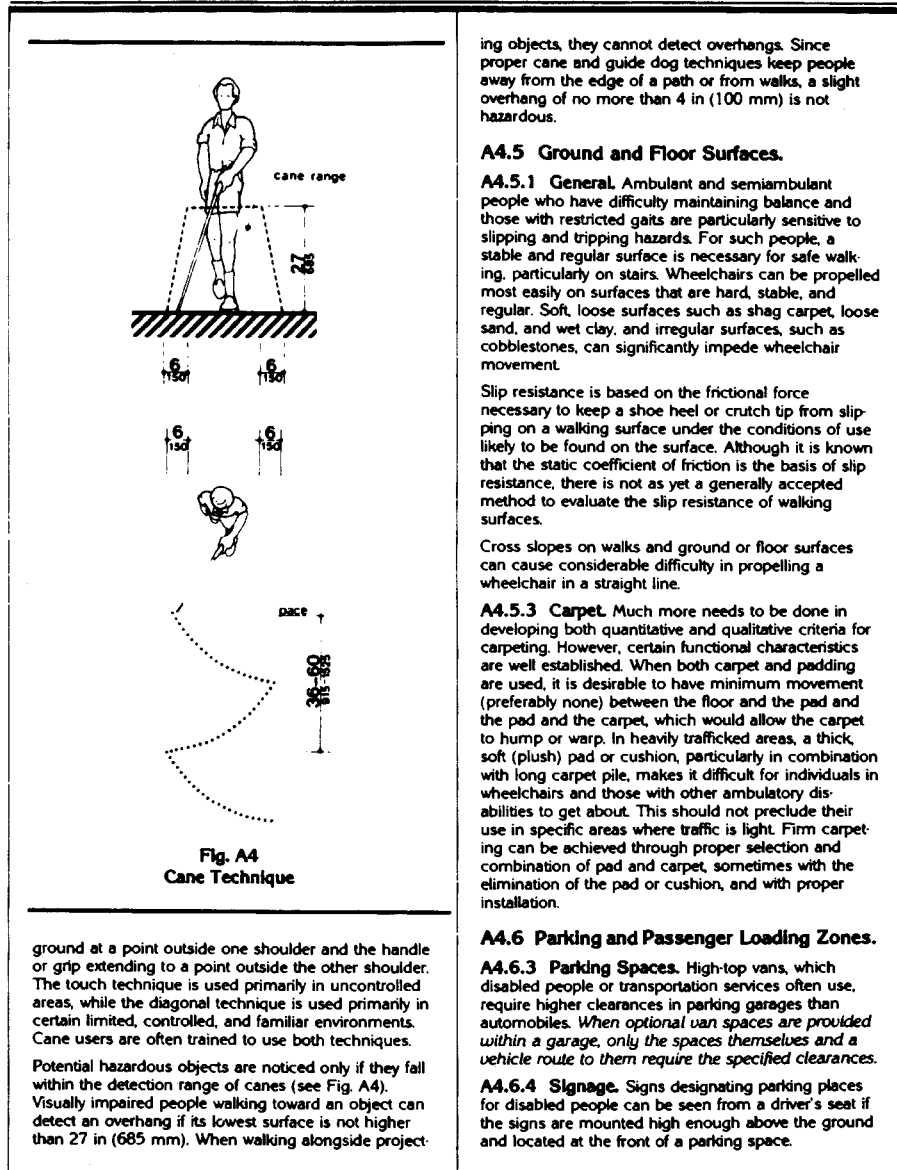


Fig. A3 (a)

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A4.4 Protruding Objects

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A4.13 Doors

A4.8 Ramps.

A4.8.1 General. Ramps are essential for wheelchair users if elevators or lifts are not available to connect different levels. However, some people who use walking aids have difficulty with ramps and prefer stairs.

A4.8.2 Slope and Rise. The ability to manage an incline is related to both its slope and its length. Wheelchair users with disabilities affecting arms or with low stamina have serious difficulty using inclines. Most ambulatory people and most people who use wheelchairs can manage a slope of 1:16. Many people cannot manage a slope of 1:12 for 30 ft (9 m). Many people who have difficulty negotiating very long ramps at relatively shallow slopes can manage very short ramps at steeper slopes.

A4.8.5 Handrails. The requirements for stair and ramp handrails in this standard are for adults. When children are principal users in a building or facility, a second set of handrails at an appropriate height can assist them and aid in preventing accidents.

A4.10 Elevators.

A4.10.6 Door Protective and Reopening Device. The required door reopening device would hold the door open for 20 seconds if the doorway remains unobstructed. After 20 seconds, the door may begin to close. However, if designed in accordance with ANSI A17.1-1978, the door closing movement could still be stopped if a person or object exerts sufficient force at any point on the door edge.

A4.10.7 Door and Signal Timing for Hall Calls. This paragraph allows variation in the location of call buttons, advance time for warning signals, and the door-holding period used to meet the time requirement.

A4.10.12 Car Controls. Industry-wide standardization of elevator control panel design would make all elevators significantly more convenient for use by people with severe visual impairments.

In many cases, it will be possible to locate the highest control on elevator panels within 48 in (1220 mm) from the floor.

A4.10.13 Car Position Indicators. A special button may be provided that would activate the audible signal within the given elevator only for the desired trip, rather than maintaining the audible signal in constant operation.

A4.10.14 Emergency Communications. A device that requires no handset is easier to use by people who have difficulty reaching.

A4.11 Platform Lifts.

Platform lifts include porch lifts and other devices used for short-distance, vertical transportation of people in

wheelchairs. At the present time, generally recognized safety standards for such lifts have not been developed. Care should be taken in selecting and installing lifts to ensure that they are free from hazards to users or to other individuals who may be in the vicinity where they are being operated.

A4.13 Doors.

A4.13.8 Thresholds at Doorways. Thresholds and surface height changes in doorways are particularly inconvenient for wheelchair users who also have low stamina or restrictions in arm movement, because complex maneuvering is required to get over the level change while operating the door.

A4.13.9 Door Hardware. Some disabled persons must push against a door with their chair or walker to open it. Applied kickplates on doors with closers can reduce required maintenance by withstanding abuse from wheelchairs and canes. To be effective, they should cover the door width, less approximately 2 in (51 mm), up to a height of 16 in (405 mm) from its bottom edge and be centered across the top.

A4.13.10 Door Closers. Closers with delayed action features give a person more time to maneuver through doorways. They are particularly useful on frequently used interior doors such as entrances to toilet rooms.

A4.13.11 Door Opening Force. Although most people with disabilities can exert at least 5 lbf (22.2N), both pushing and pulling from a stationary position, a few people with severe disabilities cannot exert even 3 lbf (13.3N). Although some people cannot manage the allowable forces in this standard and many others have difficulty, door closers must have certain minimum closing forces to close doors satisfactorily. Forces for pushing or pulling doors open are measured with a push-pull scale under the following conditions:

(1) Hinged doors: Force applied perpendicular to the door at the door opener or 30 in (760 mm) from the hinged side, whichever is farther from the hinge.

(2) Sliding or folding doors: Force applied parallel to the door at the door pull or latch.

(3) Application of force: Apply force gradually so that the applied force does not exceed the resistance of the door.

In high-rise buildings, air-pressure differentials may require a modification of this specification in order to meet the functional intent.

A4.13.12 Automatic Doors and Power-Assisted Doors. Sliding automatic doors do not need guard rails and are more convenient for wheelchair users and visually impaired people to use. If slowly opening automatic doors can be reactivated before their closing cycle is completed, they will be more convenient in busy doorways.

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A4.15 Drinking Fountains and Water Coolers**A4.15 Drinking Fountains and Water Coolers.**

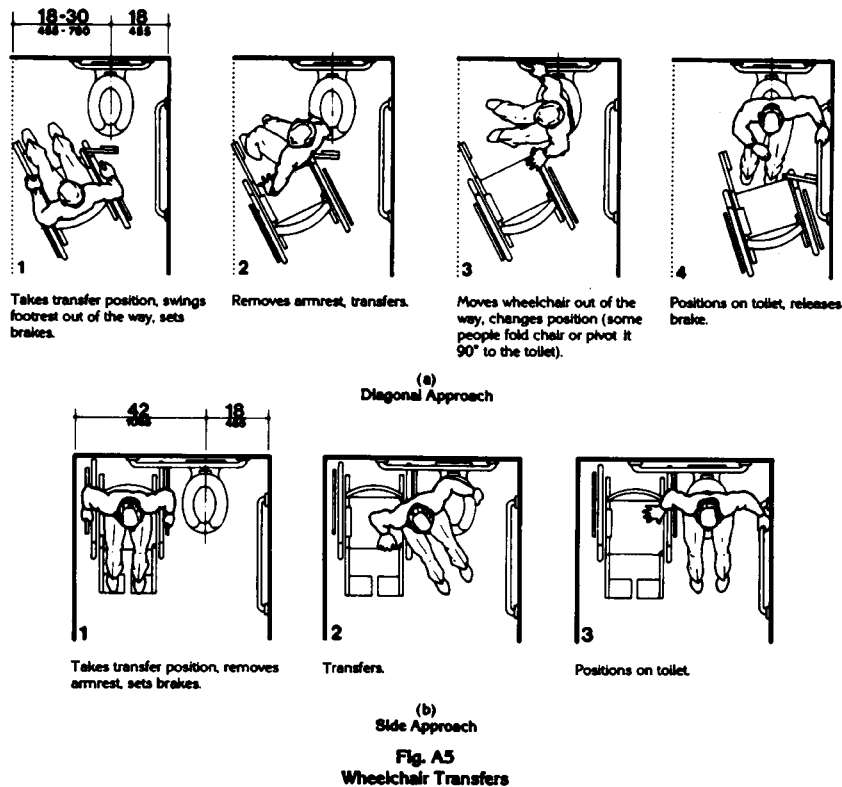
A4.15.2 *Drinking fountains with two spouts can assist both handicapped people and those people who find it difficult to bend over.*

A4.16 Water Closets.

A4.16.3 **Height.** Preferences for toilet seat heights vary considerably among disabled people. Higher seat heights may be an advantage to some ambulatory disabled people but a disadvantage for wheelchair

users and others. Toilet seats 18 in (455 mm) high seem to be a reasonable compromise. Thick seats and filler rings are available to adapt standard fixtures to these requirements.

A4.16.4 **Grab Bars.** Fig. A5(a) and (b) show the diagonal and side approaches most commonly used to transfer from a wheelchair to a water closet. Some wheelchair users can transfer from the front of the toilet, while others use a 90-degree approach. Most people who use the two additional approaches can also use either the diagonal approach or the side approach.



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A4.29 Tactile Warnings

A4.16.5 Flush Controls. Flush valves and related plumbing can be located behind walls or to the side of the toilet, or a toilet seat lid can be provided if plumbing fittings are directly behind the toilet seat. Such designs reduce the chance of injury and imbalance caused by leaning back against the fittings. Flush controls for tank-type toilets have a standardized mounting location on the left side of the tank (facing the tank). Tanks can be obtained by special order with controls mounted on the right side. If administrative authorities require flush controls for flush valves to be located in a position that conflicts with the location of the rear grab bar, then that bar may be split or shifted toward the wide side of the toilet area.

A4.17 Toilet Stalls.

A4.17.5 Doors. To make it easier for wheelchair users to close toilet stall doors, doors can be provided with closers, spring hinges, or a pull bar mounted on the inside surface of the door near the hinge side.

A4.19 Lavatories and Mirrors.

A4.19.6 Mirrors. If mirrors are to be used by both ambulatory people and wheelchair users, then they must be at least 74 in (1880 mm) high at their topmost edge. A single full length mirror can accommodate all people, including children.

A4.21 Shower Stalls.

A4.21.1 General. Shower stalls that are 36 in by 36 in (915 mm by 915 mm) wide provide additional safety to people who have difficulty maintaining balance because all grab bars and walls are within easy reach. Seated people use the walls of 36 in by 36 in (915 mm by 915 mm) showers for back support. Shower stalls that are 60 in (1525 mm) wide and have no curb may increase usability of a bathroom by wheelchair users because the shower area provides additional maneuvering space.

A4.23 Bathrooms, Bathing Facilities, and Shower Rooms.

A4.23.9 Medicine Cabinets. Other alternatives for storing medical and personal care items are very useful to disabled people. Shelves, drawers, and floor-mounted cabinets can be provided within the reach ranges of disabled people.

A4.26 Handrails, Grab Bars, and Tub and Shower Seats.

A4.26.1 General. Many disabled people rely heavily upon grab bars and handrails to maintain balance and prevent serious falls. Many people brace their forearms between supports and walls to give them more leverage and stability in maintaining balance or for lifting. The maximum grab bar clearance of 1-1/2 in (38 mm) required in this standard is a safety clearance to prevent injuries from arms slipping through the opening. It also provides adequate gripping room.

A4.26.2 Size and Spacing of Grab Bars and Handrails. This specification allows for alternate shapes of handrails as long as they allow an opposing grip similar to that provided by a circular section of 1-1/4 in to 1-1/2 in (32 mm to 38 mm).

A4.27 Controls and Operating Mechanisms.

A4.27.3 Height. Fig. A6 further illustrates mandatory and advisory control mounting height provisions for typical equipment. Note distinction between built-in equipment (considered real property) and movable equipment (considered chattel, and not covered by the Architectural Barriers Act of 1968).

A4.28 Alarms.

A4.28.2 Audible Alarms. Audible emergency signals must have an intensity and frequency that can attract the attention of individuals who have partial hearing loss. People over 60 years of age generally have difficulty perceiving frequencies higher than 10,000 Hz.

A4.28.3 Visual Alarms. The specifications in this section do not preclude the use of zoned or coded alarm systems. In zoned systems, the emergency exit lights in an area will flash whenever an audible signal rings in the area.

A4.28.4 Auxiliary Alarms. Locating visual emergency alarms in rooms where deaf individuals may work or reside alone can ensure that they will always be warned when an emergency alarm is activated. To be effective, such devices must be located and oriented so that they will spread signals and reflections throughout a space or raise the overall light level sharply. The amount and type of light necessary to wake a deaf person from a sound sleep in a dark room will vary depending on a number of factors, including the size and configuration of the room, the distance between the source and the person, whether or not the light flashes, and the cycle of flashing. A 150-watt flashing bulb can be effective under some conditions. Certain devices currently available are designed specifically as visual alarms for deaf people. Deaf people may not need accessibility features other than the emergency alarm connections and communications devices. Thus, rooms in addition to those accessible for wheelchair users also should be equipped with emergency visual alarms or connections.

A4.29 Tactile Warnings.

A4.29.2 Tactile Warnings on Walking Surfaces. (Reserved).

A4.29.3 Tactile Warnings on Doors to Hazardous Areas. Tactile signals for hand reception are useful if it is certain that the signals will be touched.

A4.29.5 Tactile Warnings at Hazardous Vehicular Areas. (Reserved).

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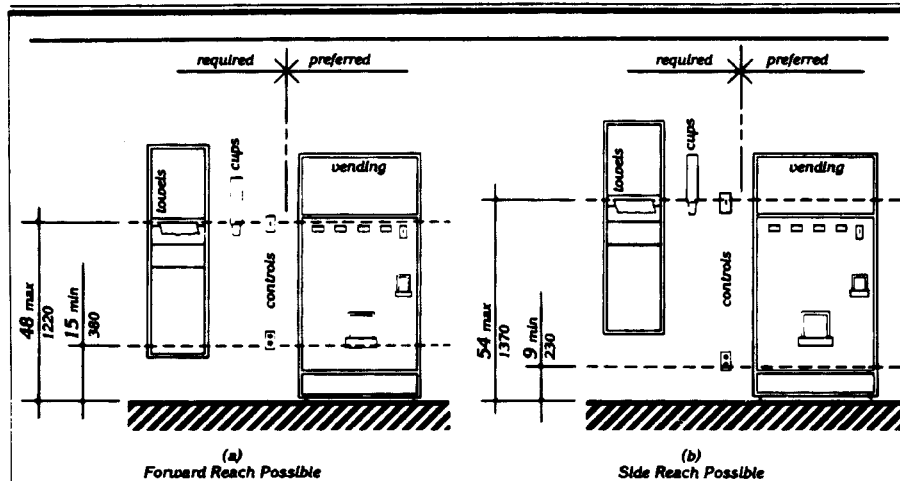
4.29 Tactile Warnings

Fig. A6
Control Reach Limitations

A4.29.6 Tactile Warnings at Reflecting Pools.
(Reserved).

A4.29.7 Standardization. Too many tactile warnings or lack of standardization weakens their usefulness. Tactile signals can also be visual signals to guide dogs, since dogs can be trained to respond to a large variety of visual cues.

A4.30 Signage.

A4.30.1 General. In building complexes where finding locations independently on a routine basis may be a necessity (for example, college campuses), tactile maps or prerecorded instructions can be very helpful to visually impaired people. Several maps and auditory instructions have been developed and tested for specific applications. The type of map or instructions used must be based on the information to be communicated, which depends highly on the type of buildings or users.

Landmarks that can easily be distinguished by visually impaired individuals are useful as orientation cues. Such cues include changes in illumination level, bright colors, unique patterns, wall murals, location of special equipment, or other architectural features (for example, an exterior view).

Many people with disabilities have limitations in movement of their head and reduced peripheral vision. Thus, signage positioned perpendicular to the path of

travel is easiest for them to notice. People can generally distinguish signage within an angle of 30 degrees to either side of the centerline of their face without moving their head.

A4.30.2 Character Proportion. The legibility of printed characters is a function of the viewing distance, character height, the ratio of the stroke width to the height of the character, the contrast of color between character and background, and print font. The size of characters must be based upon the intended viewing distance. A severely nearsighted person may have to be much closer to see a character of a given size accurately than a person with normal visual acuity.

A4.30.3 Color Contrast. The greatest readability is usually achieved through the use of light-colored characters or symbols on a dark background.

A4.30.4 Raised or Indented Characters or Symbols. Signs with descriptive materials about public buildings, monuments, and objects of cultural interest can be raised or incised letters. However, a sighted guide or audio-tape device is often a more effective way to present such information. Raised characters are easier to feel at small sizes and are not susceptible to maintenance problems as are indented characters, which can fill with dirt, cleaning compounds, and the like.

Braille characters can be used in addition to standard alphabet characters and numbers. Placing braille

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A4.33 Assembly Areas

characters to the left of standard characters makes them more convenient to read. Standard dot sizing and spacing as used in braille publications are acceptable. Raised borders around raised characters can make them confusing to read unless the border is set far away from the characters.

A4.31 Telephones.

A4.31.3 Mounting Height. In localities where the dial-tone first system is in operation, calls can be placed at a coin telephone through the operator without inserting coins. The operator button is located at a height of 46 in (1170 mm) if the coin slot of the telephone is at 54 in (1370 mm).

A generally available public telephone with a coin slot mounted lower on the equipment would allow universal installation of telephones at a height of 48 in (1220 mm) or less to all operable parts.

A4.31.5 Equipment for Hearing Impaired People. Other aids for people with hearing impairments are telephones, teleprinter, and other telephonic devices that can be used to transmit printed messages through telephone lines to a teletype printer or television monitor.

A4.32 Seating, Tables, and Work Surfaces.

A4.32.4 Height of Work Surfaces. Different types of work require different work surface heights for comfort and optimal performance. Light detailed work such as writing requires a work surface close to elbow height for a standing person. Heavy manual work such as rolling dough requires a work surface height about 10 in (255 mm) below elbow height for a standing person. The principle of a high work surface height for light detailed work and a low work surface for heavy manual work also applies for seated persons; however, the limiting condition for seated manual work is clearance under the work surface.

Table A1 shows convenient work surface heights for seated persons. The great variety of heights for comfort and optimal performance indicates a need for alternatives or a compromise in height if people who stand and people who sit will be using the same counter area.

A4.33 Assembly Areas.

A4.33.2 Size of Wheelchair Locations. Spaces large enough for two wheelchairs allow people who are coming to a performance together to sit together.

A4.33.3 Placement of Wheelchair Locations. The location of wheelchair areas can be planned so that a variety of positions within the seating area are provided. This will allow choice in viewing and price categories.

A4.33.6 Placement of Listening Systems. A distance of 50 ft (15 m) allows a person to distinguish performers' facial expressions.

Table A1
Convenient Heights of
Work Surfaces for Seated People*

Conditions of Use	Short Women		Tall Men	
	In	mm	In	mm
Seated in a wheelchair:				
Manual work:				
Desk or removable armrests	26	660	30	760
Fixed, full-size armrests†	32‡	815	32‡	815
Light, detailed work:				
Desk or removable armrests	29	735	34	865
Fixed, full-size armrests‡	32‡	815	34	865
Seated in a 16-in (405-mm)				
-high chair:				
Manual work	26	660	27	685
Light, detailed work	28	710	31	785

*All dimensions are based on a work surface thickness of 1-1/2 in (38 mm) and a clearance of 1-1/2 in (38 mm) between legs and the underside of a work surface.

†This type of wheelchair arm does not interfere with the positioning of a wheelchair under a work surface.

‡This dimension is limited by the height of the armrests; a lower height would be preferable. Some people in this group prefer lower work surfaces, which require positioning the wheelchair back from the edge of the counter.

A4.33.7 Types of Listening Systems. A listening system that can be used from any seat in a seating area is the most flexible way to meet this specification. Earphone jacks with variable volume controls can benefit only people who have slight hearing losses and do not help people with hearing aids. At the present time, audio loops are the most feasible type of listening system for people who use hearing aids, but people without hearing aids or those with hearing aids not equipped with inductive pickups cannot use them. Loops can be portable and moved to various locations within a room. Moreover, for little cost, they can serve a large area within a seating area. Radio frequency systems can be extremely effective and inexpensive. People without hearing aids can use them, but people with hearing aids need custom-designed equipment to use them as they are presently designed. If hearing aids had a jack to allow a by-pass of microphones, then radio frequency systems would be suitable for people with and without hearing aids. Some listening systems may be subject to interference from other equipment and feedback from hearing aids of people who are using the systems. Such interference can be controlled by careful engineering design that anticipates feedback and sources of interference in the surrounding area.

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A4.34 Dwelling Units**A4.34 Dwelling Units.**

A4.34.2 Minimum Requirements. Handicapped people who live in accessible dwelling units of multi-family buildings or housing projects will want to participate in all on-site social activities, including visiting neighbors in their dwelling units. Hence, any circulation paths among all dwelling units and among all on-site facilities should be as accessible as possible. An accessible second exit to dwelling units provides an extra margin of safety in a fire.

A4.34.5 Bathrooms. Although not required by these specifications, it is important to install grab bars at toilets, bathtubs, and showers if it is known that a dwelling unit will be occupied by elderly or severely disabled people.

A4.34.6 Kitchens.

A4.34.6.1 Clearance. The minimum clearances provide satisfactory maneuvering spaces for wheelchairs only if cabinets are removed at the sink.

A4.34.6.5 Sink. Installing a sink with a drain at the rear so that plumbing is as close to the wall as possible can provide additional clear knee space for wheelchair users.

A4.34.6.6 Ranges and Cooktops. Although not required for minimum accessibility, countertop range units in a counter with adjustable heights can be an added convenience for wheelchair users.

A4.34.6.7 Ovens. Countertop or wall-mounted ovens with side-opening doors are easier for people in wheelchairs to use. Clear spaces at least 30 in (760

mm) wide under counters at the side of ovens are an added convenience. The pullout board or fixed shelf under side-opening oven doors provides a resting place for heavy items being moved from the oven to a counter.

A4.34.6.8 Refrigerator/Freezers. Side-by-side refrigerator/freezers provide the most usable freezer compartments. Locating refrigerators so that their doors can swing back 180 degrees is more convenient for wheelchair users.

A4.34.6.10 Kitchen Storage. Full height cabinets or tall cabinets can be provided rather than cabinets mounted over work counters. Additional storage space located conveniently adjacent to kitchens can be provided to make up for space lost when cabinets under counters are removed.

A9. Postal Facilities.

A9.2 Post Office Lobbies. *Furniture as chattel is not covered under the Architectural Barriers Act of 1968, but the requirements for lobby furniture and equipment are imposed by the United States Postal Service for greater accessibility in its customer lobbies.*

Note: Unedited copies of the American National Standards Institute standard, A117.1-1980, "Specifications for Making Buildings and Facilities Accessible to and Usable by Physically Handicapped People," are available from the American National Standards Institute, Inc., 1430 Broadway, New York, New York 10018.

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*Bold denotes major sections of Uniform Federal Accessibility Standards

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[49 FR 31532 and 31625, Aug. 7, 1984, as amended at 50 FR 49046, Nov. 29, 1985; 54 FR 12628, Mar. 28, 1989]

Exhibit 5

code of federal regulations

reprint

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The 1991 Standards were in effect for new construction and alterations until March 14, 2012. The Department's **2010 ADA Standards for Accessible Design** were published September 15, 2010 and became effective on March 15, 2012.

28 CFR Part 36

Revised as of July 1, 1994

Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities

Excerpt from 28 CFR Part 36:

ADA Standards for Accessible Design



APPENDIX A TO PART 36 -- STANDARDS FOR ACCESSIBLE DESIGN

**ADA ACCESSIBILITY GUIDELINES
FOR BUILDINGS AND FACILITIES
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1. PURPOSE.

This document sets guidelines for accessibility to places of public accommodation and commercial facilities by individuals with disabilities. These guidelines are to be applied during the design, construction, and alteration of such buildings and facilities to the extent required by regulations issued by Federal agencies, including the Department of Justice, under the Americans with Disabilities Act of 1990.

The technical specifications 4.2 through 4.35, of these guidelines are the same as those of the American National Standard Institute's document A117.1-1980, except as noted in this text by italics. However, sections 4.1.1 through 4.1.7 and sections 5 through 10 are different from ANSI A117.1 in their entirety and are printed in standard type.

The illustrations and text of ANSI A117.1 are reproduced with permission from the American National Standards Institute. Copies of the standard may be purchased from the American National Standards Institute at 1430 Broadway, New York, New York 10018.

2. GENERAL.

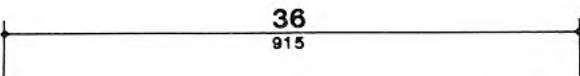
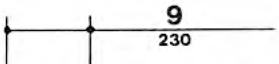
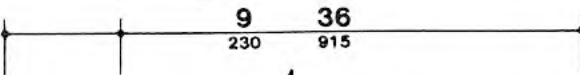

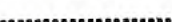

2.1 Provisions for Adults. *The specifications in these guidelines are based upon adult dimensions and anthropometrics.*

2.2* Equivalent Facilitation. *Departures from particular technical and scoping requirements of this guideline by the use of other designs and technologies are permitted where the alternative designs and technologies used will provide substantially equivalent or greater access to and usability of the facility.*

3. MISCELLANEOUS INSTRUCTIONS AND DEFINITIONS.

3.1 Graphic Conventions. Graphic conventions are shown in Table 1. Dimensions that are not marked minimum or maximum are absolute, unless otherwise indicated in the text or captions.

Table 1
Graphic Conventions

Convention	Description
	Typical dimension line showing U.S. customary units (in inches) above the line and SI units (in millimeters) below
	Dimensions for short distances indicated on extended line
	Dimension line showing alternate dimensions required
	Direction of approach
max	Maximum
min	Minimum
	Boundary of clear floor area
	Centerline

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3.4 General Terminology

3.2 Dimensional Tolerances. All dimensions are subject to conventional building industry tolerances for field conditions.

3.3 Notes. The text of *these guidelines* does not contain notes or footnotes. Additional information, explanations, and advisory materials are located in the Appendix. Paragraphs marked with an asterisk have related, nonmandatory material in the Appendix. In the Appendix, the corresponding paragraph numbers are preceded by an A.

3.4 General Terminology.

comply with. Meet one or more specifications of *these guidelines*.

if, if ... then. Denotes a specification that applies only when the conditions described are present.

may. Denotes an option or alternative.

shall. Denotes a mandatory specification or requirement.

should. Denotes an advisory specification or recommendation.

3.5 Definitions.

Access Aisle. An accessible pedestrian space between elements, such as parking spaces, seating, and desks, that provides clearances appropriate for use of the elements.

Accessible. Describes a site, building, facility, or portion thereof that complies with *these guidelines*.

Accessible Element. An *element* specified by *these guidelines* (for example, telephone, controls, and the like).

Accessible Route. A continuous unobstructed path connecting all accessible elements and spaces of a building or facility. Interior accessible routes may include corridors, floors, ramps, elevators, lifts, and clear floor space at fixtures. Exterior accessible routes may include parking access aisles, curb ramps, *crosswalks at vehicular ways*, walks, ramps, and lifts.

Accessible Space. Space that complies with *these guidelines*.

Adaptability. The ability of certain building spaces and elements, such as kitchen counters, sinks, and grab bars, to be added or altered so as to accommodate the needs of *individuals with or without disabilities* or to accommodate the needs of persons with different types or degrees of disability.

Addition. An expansion, extension, or increase in the gross floor area of a building or facility.

Administrative Authority. A governmental agency that adopts or enforces regulations and *guidelines* for the design, construction, or alteration of buildings and facilities.

Alteration. An alteration is a change to a building or facility made by, on behalf of, or for the use of a public accommodation or commercial facility, that affects or could affect the usability of the building or facility or part thereof. Alterations include, but are not limited to, remodeling, renovation, rehabilitation, reconstruction, historic restoration, changes or rearrangement of the structural parts or elements, and changes or rearrangement in the plan configuration of walls and full-height partitions. Normal maintenance, reroofing, painting or wallpapering, or changes to mechanical and electrical systems are not alterations unless they affect the usability of the building or facility.

Area of Rescue Assistance. An area, which has direct access to an exit, where people who are unable to use stairs may remain temporarily in safety to await further instructions or assistance during emergency evacuation.

Assembly Area. A room or space accommodating a *group* of individuals for recreational, educational, political, social, or amusement purposes, or for the consumption of food and drink.

Automatic Door. A door equipped with a power-operated mechanism and controls that open and close the door automatically upon receipt of a momentary actuating signal. The switch that begins the automatic cycle may be a photoelectric device, floor mat, or manual switch (see power-assisted door).

Building. Any structure used and intended for supporting or sheltering any use or occupancy.

Circulation Path. An exterior or interior way of passage from one place to another for pedestrians, including, but not limited to, walks, hallways, courtyards, stairways, and stair landings.

Clear. Unobstructed.

Clear Floor Space. *The minimum unobstructed floor or ground space required to accommodate a single, stationary wheelchair and occupant.*

Closed Circuit Telephone. *A telephone with dedicated line(s) such as a house phone, courtesy phone or phone that must be used to gain entrance to a facility.*

Common Use. Refers to those interior and exterior rooms, spaces, or elements that are made available for the use of a restricted group of people (for example, occupants of a homeless shelter, the occupants of an office building, or the guests of such occupants).

Cross Slope. The slope that is perpendicular to the direction of travel (see running slope).

Curb Ramp. A short ramp cutting through a curb or built up to it.

Detectable Warning. *A standardized surface feature built in or applied to walking surfaces or other elements to warn visually impaired people of hazards on a circulation path.*

Dwelling Unit. A single unit which provides a kitchen or food preparation area, in addition to rooms and spaces for living, bathing, sleeping, and the like. *Dwelling units include a single family home or a townhouse used as a transient group home; an apartment building used as a shelter; guestrooms in a hotel that provide sleeping accommodations and food preparation areas; and other similar facilities used on a transient basis. For purposes of these guidelines, use of the term "Dwelling Unit" does not imply the unit is used as a residence.*

Egress, Means of. *A continuous and unobstructed way of exit travel from any point in a building or facility to a public way. A means of egress comprises vertical and horizontal*

travel and may include intervening room spaces, doorways, hallways, corridors, passageways, balconies, ramps, stairs, enclosures, lobbies, horizontal exits, courts and yards. An accessible means of egress is one that complies with these guidelines and does not include stairs, steps, or escalators. Areas of rescue assistance or evacuation elevators may be included as part of accessible means of egress.

Element. *An architectural or mechanical component of a building, facility, space, or site, e.g., telephone, curb ramp, door, drinking fountain, seating, or water closet.*

Entrance. *Any access point to a building or portion of a building or facility used for the purpose of entering. An entrance includes the approach walk, the vertical access leading to the entrance platform, the entrance platform itself, vestibules if provided, the entry door(s) or gate(s), and the hardware of the entry door(s) or gate(s).*

Facility. *All or any portion of buildings, structures, site improvements, complexes, equipment, roads, walks, passageways, parking lots, or other real or personal property located on a site.*

Ground Floor. *Any occupiable floor less than one story above or below grade with direct access to grade. A building or facility always has at least one ground floor and may have more than one ground floor as where a split level entrance has been provided or where a building is built into a hillside.*

Mezzanine or Mezzanine Floor. *That portion of a story which is an intermediate floor level placed within the story and having occupiable space above and below its floor.*

Marked Crossing. A crosswalk or other identified path intended for pedestrian use in crossing a vehicular way.

Multifamily Dwelling. Any building containing more than two dwelling units.

Occupiable. *A room or enclosed space designed for human occupancy in which individuals congregate for amusement, educational or similar purposes, or in which occupants are engaged at labor, and which is equipped with means of egress, light, and ventilation.*

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3.5 Definitions

<p><u>Operable Part.</u> A part of a piece of equipment or appliance used to insert or withdraw objects, or to activate, deactivate, or adjust the equipment or appliance (for example, coin slot, pushbutton, handle).</p> <p><u>Path of Travel.</u> (Reserved).</p> <p><u>Power-assisted Door.</u> A door used for human passage with a mechanism that helps to open the door, or relieves the opening resistance of a door, upon the activation of a switch or a continued force applied to the door itself.</p> <p><u>Public Use.</u> Describes interior or exterior rooms or spaces that are made available to the general public. Public use may be provided at a building or facility that is privately or publicly owned.</p> <p><u>Ramp.</u> A walking surface which has a running slope greater than 1:20.</p> <p><u>Running Slope.</u> The slope that is parallel to the direction of travel (see cross slope).</p> <p><u>Service Entrance.</u> An entrance intended primarily for delivery of goods or services.</p> <p><u>Signage.</u> Displayed verbal, symbolic, tactile, and pictorial information.</p> <p><u>Site.</u> A parcel of land bounded by a property line or a designated portion of a public right-of-way.</p> <p><u>Site Improvement.</u> Landscaping, paving for pedestrian and vehicular ways, outdoor lighting, recreational facilities, and the like, added to a site.</p> <p><u>Sleeping Accommodations.</u> Rooms in which people sleep; for example, dormitory and hotel or motel guest rooms or suites.</p> <p><u>Space.</u> A definable area, e.g., room, toilet room, hall, assembly area, entrance, storage room, alcove, courtyard, or lobby.</p> <p><u>Story.</u> That portion of a building included between the upper surface of a floor and upper surface of the floor or roof next above. If such</p>	<p><i>portion of a building does not include occupiable space, it is not considered a story for purposes of these guidelines. There may be more than one floor level within a story as in the case of a mezzanine or mezzanines.</i></p> <p><u>Structural Frame.</u> The structural frame shall be considered to be the columns and the girders, beams, trusses and spandrels having direct connections to the columns and all other members which are essential to the stability of the building as a whole.</p> <p><u>Tactile.</u> Describes an object that can be perceived using the sense of touch.</p> <p><u>Text Telephone.</u> Machinery or equipment that employs interactive graphic (i.e., typed) communications through the transmission of coded signals across the standard telephone network. Text telephones can include, for example, devices known as TDD's (telecommunication display devices or telecommunication devices for deaf persons) or computers.</p> <p><u>Transient Lodging.</u> A building, facility, or portion thereof, excluding inpatient medical care facilities, that contains one or more dwelling units or sleeping accommodations. Transient lodging may include, but is not limited to, resorts, group homes, hotels, motels, and dormitories.</p> <p><u>Vehicular Way.</u> A route intended for vehicular traffic, such as a street, driveway, or parking lot.</p> <p><u>Walk.</u> An exterior pathway with a prepared surface intended for pedestrian use, including general pedestrian areas such as plazas and courts.</p> <p>NOTE: Sections 4.1.1 through 4.1.7 are different from ANSI A117.1 in their entirety and are printed in standard type (ANSI A117.1 does not include scoping provisions).</p>
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4.0 Accessible Elements and Spaces: Scope and Technical Requirements

4. ACCESSIBLE ELEMENTS AND SPACES: SCOPE AND TECHNICAL REQUIREMENTS.

4.1 Minimum Requirements

4.1.1* Application.

(1) General. All areas of newly designed or newly constructed buildings and facilities required to be accessible by 4.1.2 and 4.1.3 and altered portions of existing buildings and facilities required to be accessible by 4.1.6 shall comply with these guidelines, 4.1 through 4.35, unless otherwise provided in this section or as modified in a special application section.

(2) Application Based on Building Use. Special application sections 5 through 10 provide additional requirements for restaurants and cafeterias, medical care facilities, business and mercantile, libraries, accessible transient lodging, and transportation facilities. When a building or facility contains more than one use covered by a special application section, each portion shall comply with the requirements for that use.

(3)* Areas Used Only by Employees as Work Areas. Areas that are used only as work areas shall be designed and constructed so that individuals with disabilities can approach, enter, and exit the areas. These guidelines do not require that any areas used only as work areas be constructed to permit maneuvering within the work area or be constructed or equipped (i.e., with racks or shelves) to be accessible.

(4) Temporary Structures. These guidelines cover temporary buildings or facilities as well as permanent facilities. Temporary buildings and facilities are not of permanent construction but are extensively used or are essential for public use for a period of time. Examples of temporary buildings or facilities covered by these guidelines include, but are not limited to: reviewing stands, temporary classrooms, bleacher areas, exhibit areas, temporary banking facilities, temporary health screening services, or temporary safe pedestrian passageways around a construction site. Structures,

sites and equipment directly associated with the actual processes of construction, such as scaffolding, bridging, materials hoists, or construction trailers are not included.

(5) General Exceptions.

(a) In new construction, a person or entity is not required to meet fully the requirements of these guidelines where that person or entity can demonstrate that it is structurally impracticable to do so. Full compliance will be considered structurally impracticable only in those rare circumstances when the unique characteristics of terrain prevent the incorporation of accessibility features. If full compliance with the requirements of these guidelines is structurally impracticable, a person or entity shall comply with the requirements to the extent it is not structurally impracticable. Any portion of the building or facility which can be made accessible shall comply to the extent that it is not structurally impracticable.

(b) Accessibility is not required to (i) observation galleries used primarily for security purposes; or (ii) in non-occupiable spaces accessed only by ladders, catwalks, crawl spaces, very narrow passageways, or freight (non-passenger) elevators, and frequented only by service personnel for repair purposes; such spaces include, but are not limited to, elevator pits, elevator penthouses, piping or equipment catwalks.

4.1.2 Accessible Sites and Exterior Facilities: New Construction. An accessible site shall meet the following minimum requirements:

(1) At least one accessible route complying with 4.3 shall be provided within the boundary of the site from public transportation stops, accessible parking spaces, passenger loading zones if provided, and public streets or sidewalks, to an accessible building entrance.

(2) At least one accessible route complying with 4.3 shall connect accessible buildings, accessible facilities, accessible elements, and accessible spaces that are on the same site.

(3) All objects that protrude from surfaces or posts into circulation paths shall comply with 4.4.

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4.1.2 Accessible Sites and Exterior Facilities: New Construction

(4) Ground surfaces along accessible routes and in accessible spaces shall comply with 4.5.

(5) (a) If parking spaces are provided for self-parking by employees or visitors, or both, then accessible spaces complying with 4.6 shall be provided in each such parking area in conformance with the table below. Spaces required by the table need not be provided in the particular lot. They may be provided in a different location if equivalent or greater accessibility, in terms of distance from an accessible entrance, cost and convenience is ensured.

Total Parking in Lot	Required Minimum Number of Accessible Spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	2 percent of total
1001 and over	20, plus 1 for each 100 over 1000

Except as provided in (b), access aisles adjacent to accessible spaces shall be 60 in (1525 mm) wide minimum.

(b) One in every eight accessible spaces, but not less than one, shall be served by an access aisle 96 in (2440 mm) wide minimum and shall be designated "van accessible" as required by 4.6.4. The vertical clearance at such spaces shall comply with 4.6.5. All such spaces may be grouped on one level of a parking structure.

EXCEPTION: Provision of all required parking spaces in conformance with "Universal Parking Design" (see appendix A4.6.3) is permitted.

(c) If passenger loading zones are provided, then at least one passenger loading zone shall comply with 4.6.6.

(d) At facilities providing medical care and other services for persons with mobility impairments, parking spaces complying with 4.6 shall be provided in accordance with

4.1.2(5)(a) except as follows:

(i) Outpatient units and facilities: 10 percent of the total number of parking spaces provided serving each such outpatient unit or facility;

(ii) Units and facilities that specialize in treatment or services for persons with mobility impairments: 20 percent of the total number of parking spaces provided serving each such unit or facility.

(e)* Valet parking: Valet parking facilities shall provide a passenger loading zone complying with 4.6.6 located on an accessible route to the entrance of the facility. Paragraphs 5(a), 5(b), and 5(d) of this section do not apply to valet parking facilities.

(6) If toilet facilities are provided on a site, then each such public or common use toilet facility shall comply with 4.22. If bathing facilities are provided on a site, then each such public or common use bathing facility shall comply with 4.23.

For single user portable toilet or bathing units clustered at a single location, at least 5% but no less than one toilet unit or bathing unit complying with 4.22 or 4.23 shall be installed at each cluster whenever typical inaccessible units are provided.

Accessible units shall be identified by the International Symbol of Accessibility.

EXCEPTION: Portable toilet units at construction sites used exclusively by construction personnel are not required to comply with 4.1.2(6).

(7) Building Signage. Signs which designate permanent rooms and spaces shall comply with 4.30.1, 4.30.4, 4.30.5 and 4.30.6. Other signs which provide direction to, or information about, functional spaces of the building shall comply with 4.30.1, 4.30.2, 4.30.3, and 4.30.5. Elements and spaces of accessible facilities which shall be identified by the International Symbol of Accessibility and which shall comply with 4.30.7 are:

(a) Parking spaces designated as reserved for individuals with disabilities;

4.1.3 Accessible Buildings: New Construction

(b) Accessible passenger loading zones;

(c) Accessible entrances when not all are accessible (inaccessible entrances shall have directional signage to indicate the route to the nearest accessible entrance);

(d) Accessible toilet and bathing facilities when not all are accessible.

4.1.3 Accessible Buildings: New Construction. Accessible buildings and facilities shall meet the following minimum requirements:

(1) At least one accessible route complying with 4.3 shall connect accessible building or facility entrances with all accessible spaces and elements within the building or facility.

(2) All objects that overhang or protrude into circulation paths shall comply with 4.4.

(3) Ground and floor surfaces along accessible routes and in accessible rooms and spaces shall comply with 4.5.

(4) Interior and exterior stairs connecting levels that are not connected by an elevator, ramp, or other accessible means of vertical access shall comply with 4.9.

(5)* One passenger elevator complying with 4.10 shall serve each level, including mezzanines, in all multi-story buildings and facilities unless exempted below. If more than one elevator is provided, each full passenger elevator shall comply with 4.10.

EXCEPTION 1: Elevators are not required in facilities that are less than three stories or that have less than 3000 square feet per story unless the building is a shopping center, a shopping mall, or the professional office of a health care provider, or another type of facility as determined by the Attorney General. The elevator exemption set forth in this paragraph does not obviate or limit in any way the obligation to comply with the other accessibility requirements established in section 4.1.3. For example, floors above or below the accessible ground floor must meet the requirements of this section except for elevator service. If toilet or bathing facilities are provided on a level not served by an elevator, then toilet or bathing facilities must be provided on the accessible

ground floor. In new construction if a building or facility is eligible for this exemption but a full passenger elevator is nonetheless planned, that elevator shall meet the requirements of 4.10 and shall serve each level in the building. A full passenger elevator that provides service from a garage to only one level of a building or facility is not required to serve other levels.

EXCEPTION 2: Elevator pits, elevator pent-houses, mechanical rooms, piping or equipment catwalks are exempted from this requirement.

EXCEPTION 3: Accessible ramps complying with 4.8 may be used in lieu of an elevator.

EXCEPTION 4: Platform lifts (wheelchair lifts) complying with 4.11 of this guideline and applicable state or local codes may be used in lieu of an elevator only under the following conditions:

(a) To provide an accessible route to a performing area in an assembly occupancy.
(b) To comply with the wheelchair viewing position line-of-sight and dispersion requirements of 4.33.3.

(c) To provide access to incidental occupiable spaces and rooms which are not open to the general public and which house no more than five persons, including but not limited to equipment control rooms and projection booths.

(d) To provide access where existing site constraints or other constraints make use of a ramp or an elevator infeasible.

(6) Windows: (Reserved).

(7) Doors:

(a) At each accessible entrance to a building or facility, at least one door shall comply with 4.13.

(b) Within a building or facility, at least one door at each accessible space shall comply with 4.13.

(c) Each door that is an element of an accessible route shall comply with 4.13.

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4.1.3 Accessible Buildings: New Construction

<p>(d) Each door required by 4.3.10, Egress, shall comply with 4.13.</p> <p>(8) In new construction, at a minimum, the requirements in (a) and (b) below shall be satisfied independently:</p> <p>(a)(i) At least 50% of all public entrances (excluding those in (b) below) must be accessible. At least one must be a ground floor entrance. Public entrances are any entrances that are not loading or service entrances.</p> <p>(ii) Accessible entrances must be provided in a number at least equivalent to the number of exits required by the applicable building/fire codes. (This paragraph does not require an increase in the total number of entrances planned for a facility.)</p> <p>(iii) An accessible entrance must be provided to each tenancy in a facility (for example, individual stores in a strip shopping center).</p> <p>One entrance may be considered as meeting more than one of the requirements in (a). Where feasible, accessible entrances shall be the entrances used by the majority of people visiting or working in the building.</p> <p>(b)(i) In addition, if direct access is provided for pedestrians from an enclosed parking garage to the building, at least one direct entrance from the garage to the building must be accessible.</p> <p>(ii) If access is provided for pedestrians from a pedestrian tunnel or elevated walkway, one entrance to the building from each tunnel or walkway must be accessible.</p> <p>One entrance may be considered as meeting more than one of the requirements in (b).</p> <p>Because entrances also serve as emergency exits whose proximity to all parts of buildings and facilities is essential, it is preferable that all entrances be accessible.</p> <p>(c) If the only entrance to a building, or tenancy in a facility, is a service entrance, that entrance shall be accessible.</p> <p>(d) Entrances which are not accessible shall have directional signage complying with 4.30.1,</p>	<p>4.30.2, 4.30.3, and 4.30.5, which indicates the location of the nearest accessible entrance.</p> <p>(9)* In buildings or facilities, or portions of buildings or facilities, required to be accessible, accessible means of egress shall be provided in the same number as required for exits by local building/life safety regulations. Where a required exit from an occupiable level above or below a level of accessible exit discharge is not accessible, an area of rescue assistance shall be provided on each such level (in a number equal to that of inaccessible required exits). Areas of rescue assistance shall comply with 4.3.11. A horizontal exit, meeting the requirements of local building/life safety regulations, shall satisfy the requirement for an area of rescue assistance.</p> <p>EXCEPTION: Areas of rescue assistance are not required in buildings or facilities having a supervised automatic sprinkler system.</p> <p>(10)* Drinking Fountains:</p> <p>(a) Where only one drinking fountain is provided on a floor there shall be a drinking fountain which is accessible to individuals who use wheelchairs in accordance with 4.15 and one accessible to those who have difficulty bending or stooping. (This can be accommodated by the use of a "hi-lo" fountain; by providing one fountain accessible to those who use wheelchairs and one fountain at a standard height convenient for those who have difficulty bending; by providing a fountain accessible under 4.15 and a water cooler; or by such other means as would achieve the required accessibility for each group on each floor.)</p> <p>(b) Where more than one drinking fountain or water cooler is provided on a floor, 50% of those provided shall comply with 4.15 and shall be on an accessible route.</p> <p>(11) Toilet Facilities: If toilet rooms are provided, then each public and common use toilet room shall comply with 4.22. Other toilet rooms provided for the use of occupants of specific spaces (i.e., a private toilet room for the occupant of a private office) shall be adaptable. If bathing rooms are provided, then each public and common use bathroom shall comply with 4.23. Accessible toilet rooms and bathing facilities shall be on an accessible route.</p>
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4.1.3 Accessible Buildings: New Construction

<p>(12) Storage, Shelving and Display Units:</p> <p>(a) If fixed or built-in storage facilities such as cabinets, shelves, closets, and drawers are provided in accessible spaces, at least one of each type provided shall contain storage space complying with 4.25. Additional storage may be provided outside of the dimensions required by 4.25.</p> <p>(b) Shelves or display units allowing self-service by customers in mercantile occupancies shall be located on an accessible route complying with 4.3. Requirements for accessible reach range do not apply.</p> <p>(13) Controls and operating mechanisms in accessible spaces, along accessible routes, or as parts of accessible elements (for example, light switches and dispenser controls) shall comply with 4.27.</p> <p>(14) If emergency warning systems are provided, then they shall include both audible alarms and visual alarms complying with 4.28. Sleeping accommodations required to comply with 9.3 shall have an alarm system complying with 4.28. Emergency warning systems in medical care facilities may be modified to suit standard health care alarm design practice.</p> <p>(15) Detectable warnings shall be provided at locations as specified in 4.29.</p> <p>(16) Building Signage:</p> <p>(a) Signs which designate permanent rooms and spaces shall comply with 4.30.1, 4.30.4, 4.30.5 and 4.30.6.</p> <p>(b) Other signs which provide direction to or information about functional spaces of the building shall comply with 4.30.1, 4.30.2, 4.30.3, and 4.30.5.</p> <p>EXCEPTION: Building directories, menus, and all other signs which are temporary are not required to comply.</p> <p>(17) Public telephones:</p> <p>(a) If public pay telephones, public closed circuit telephones, or other public telephones are provided, then they shall comply with 4.31.2 through 4.31.8 to the extent required by the following table:</p>	<table border="1"> <thead> <tr> <th data-bbox="824 241 1089 325">Number of each type of telephone provided on each floor</th><th data-bbox="1117 241 1404 325">Number of telephones required to comply with 4.31.2 through 4.31.8¹</th></tr> </thead> <tbody> <tr> <td data-bbox="824 352 1062 380">1 or more single unit</td><td data-bbox="1117 352 1219 380">1 per floor</td></tr> <tr> <td data-bbox="824 407 911 434">1 bank²</td><td data-bbox="1117 407 1219 434">1 per floor</td></tr> <tr> <td data-bbox="824 462 1019 489">2 or more banks²</td><td data-bbox="1117 462 1404 699">1 per bank. Accessible unit may be installed as a single unit in proximity (either visible or with signage) to the bank. At least one public telephone per floor shall meet the requirements for a forward reach telephone³.</td></tr> </tbody> </table> <p>¹ Additional public telephones may be installed at any height. Unless otherwise specified, accessible telephones may be either forward or side reach telephones.</p> <p>² A bank consists of two or more adjacent public telephones, often installed as a unit.</p> <p>³ EXCEPTION: For exterior installations only, if dial tone first service is available, then a side reach telephone may be installed instead of the required forward reach telephone (i.e., one telephone in proximity to each bank shall comply with 4.31).</p> <p>(b)* All telephones required to be accessible and complying with 4.31.2 through 4.31.8 shall be equipped with a volume control. In addition, 25 percent, but never less than one, of all other public telephones provided shall be equipped with a volume control and shall be dispersed among all types of public telephones, including closed circuit telephones, throughout the building or facility. Signage complying with applicable provisions of 4.30.7 shall be provided.</p> <p>(c) The following shall be provided in accordance with 4.31.9:</p> <p>(i) if a total number of four or more public pay telephones (including both interior and exterior phones) is provided at a site, and at least one is in an interior location, then at least one interior public text telephone shall be provided.</p> <p>(ii) if an interior public pay telephone is provided in a stadium or arena, in a convention center, in a hotel with a convention center, or</p>	Number of each type of telephone provided on each floor	Number of telephones required to comply with 4.31.2 through 4.31.8 ¹	1 or more single unit	1 per floor	1 bank ²	1 per floor	2 or more banks ²	1 per bank. Accessible unit may be installed as a single unit in proximity (either visible or with signage) to the bank. At least one public telephone per floor shall meet the requirements for a forward reach telephone ³ .
Number of each type of telephone provided on each floor	Number of telephones required to comply with 4.31.2 through 4.31.8 ¹								
1 or more single unit	1 per floor								
1 bank ²	1 per floor								
2 or more banks ²	1 per bank. Accessible unit may be installed as a single unit in proximity (either visible or with signage) to the bank. At least one public telephone per floor shall meet the requirements for a forward reach telephone ³ .								

4.1.3 Accessible Buildings: New Construction

in a covered mall, at least one interior public text telephone shall be provided in the facility.

(iii) if a public pay telephone is located in or adjacent to a hospital emergency room, hospital recovery room, or hospital waiting room, one public text telephone shall be provided at each such location.

(d) Where a bank of telephones in the interior of a building consists of three or more public pay telephones, at least one public pay telephone in each such bank shall be equipped with a shelf and outlet in compliance with 4.31.9(2).

(18) If fixed or built-in seating or tables (including, but not limited to, study carrels and student laboratory stations), are provided in accessible public or common use areas, at least five percent (5%), but not less than one, of the fixed or built-in seating areas or tables shall comply with 4.32. An accessible route shall lead to and through such fixed or built-in seating areas, or tables.

(19)* Assembly areas:

(a) In places of assembly with fixed seating accessible wheelchair locations shall comply with 4.33.2, 4.33.3, and 4.33.4 and shall be provided consistent with the following table:

Capacity of Seating in Assembly Areas	Number of Required Wheelchair Locations
4 to 25	1
26 to 50	2
51 to 300	4
301 to 500	6
over 500	6, plus 1 additional space for each total seating capacity increase of 100

In addition, one percent, but not less than one, of all fixed seats shall be aisle seats with no armrests on the aisle side, or removable or folding armrests on the aisle side. Each such seat shall be identified by a sign or marker. Signage notifying patrons of the availability of such seats shall be posted at the ticket office. Aisle seats are not required to comply with 4.33.4.

(b) This paragraph applies to assembly areas where audible communications are integral to the use of the space (e.g., concert and lecture halls, playhouses and movietheaters, meeting rooms, etc.). Such assembly areas, if (1) they accommodate at least 50 persons, or if they have audio-amplification systems, and (2) they have fixed seating, shall have a permanently installed assistive listening system complying with 4.33. For other assembly areas, a permanently installed assistive listening system, or an adequate number of electrical outlets or other supplementary wiring necessary to support a portable assistive listening system shall be provided. The minimum number of receivers to be provided shall be equal to 4 percent of the total number of seats, but in no case less than two. Signage complying with applicable provisions of 4.30 shall be installed to notify patrons of the availability of a listening system.

(20) Where automated teller machines (ATMs) are provided, each ATM shall comply with the requirements of 4.34 except where two or more are provided at a location, then only one must comply.

EXCEPTION: Drive-up-only automated teller machines are not required to comply with 4.27.2, 4.27.3 and 4.34.3.

(21) Where dressing and fitting rooms are provided for use by the general public, patients, customers or employees, 5 percent, but never less than one, of dressing rooms for each type of use in each cluster of dressing rooms shall be accessible and shall comply with 4.35.

Examples of types of dressing rooms are those serving different genders or distinct and different functions as in different treatment or examination facilities.

4.1.4 (Reserved).

4.1.5 Accessible Buildings: Additions. Each addition to an existing building or facility shall be regarded as an alteration. Each space or element added to the existing building or facility shall comply with the applicable provisions of 4.1.1 to 4.1.3, Minimum Requirements (for New Construction) and the applicable technical specifications of 4.2 through 4.35 and sections 5 through 10. Each addition that

4.1.6 Accessible Buildings: Alteration

affects or could affect the usability of an area containing a primary function shall comply with 4.1.6(2).

4.1.6 Accessible Buildings: Alterations.

(1) General. Alterations to existing buildings and facilities shall comply with the following:

(a) No alteration shall be undertaken which decreases or has the effect of decreasing accessibility or usability of a building or facility below the requirements for new construction at the time of alteration.

(b) If existing elements, spaces, or common areas are altered, then each such altered element, space, feature, or area shall comply with the applicable provisions of 4.1.1 to 4.1.3 Minimum Requirements (for New Construction). If the applicable provision for new construction requires that an element, space, or common area be on an accessible route, the altered element, space, or common area is not required to be on an accessible route except as provided in 4.1.6(2) (Alterations to an Area Containing a Primary Function.)

(c) If alterations of single elements, when considered together, amount to an alteration of a room or space in a building or facility, the entire space shall be made accessible.

(d) No alteration of an existing element, space, or area of a building or facility shall impose a requirement for greater accessibility than that which would be required for new construction. For example, if the elevators and stairs in a building are being altered and the elevators are, in turn, being made accessible, then no accessibility modifications are required to the stairs connecting levels connected by the elevator. If stair modifications to correct unsafe conditions are required by other codes, the modifications shall be done in compliance with these guidelines unless technically infeasible.

(e) At least one interior public text telephone complying with 4.31.9 shall be provided if:

(i) alterations to existing buildings or facilities with less than four exterior or interior public pay telephones would increase the total number to four or more telephones with at least one in an interior location; or

(ii) alterations to one or more exterior or interior public pay telephones occur in an existing building or facility with four or more public telephones with at least one in an interior location.

(f) If an escalator or stair is planned or installed where none existed previously and major structural modifications are necessary for such installation, then a means of accessible vertical access shall be provided that complies with the applicable provisions of 4.7, 4.8, 4.10, or 4.11.

(g) In alterations, the requirements of 4.1.3(9), 4.3.10 and 4.3.11 do not apply.

(h)* Entrances: If a planned alteration entails alterations to an entrance, and the building has an accessible entrance, the entrance being altered is not required to comply with 4.1.3(8), except to the extent required by 4.1.6(2). If a particular entrance is not made accessible, appropriate accessible signage indicating the location of the nearest accessible entrance(s) shall be installed at or near the inaccessible entrance, such that a person with disabilities will not be required to retrace the approach route from the inaccessible entrance.

(i) If the alteration work is limited solely to the electrical, mechanical, or plumbing system, or to hazardous material abatement, or automatic sprinkler retrofitting, and does not involve the alteration of any elements or spaces required to be accessible under these guidelines, then 4.1.6(2) does not apply.

(j) EXCEPTION: In alteration work, if compliance with 4.1.6 is technically infeasible, the alteration shall provide accessibility to the maximum extent feasible. Any elements or features of the building or facility that are being altered and can be made accessible shall be made accessible within the scope of the alteration.

Technically Infeasible. Means, with respect to an alteration of a building or a facility, that it has little likelihood of being accomplished because existing structural conditions would require removing or altering a load-bearing member which is an essential part of the structural frame; or because other existing physical or site constraints prohibit modification or addition of elements, spaces, or

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4.1.6 Accessible Buildings: Alterations

features which are in full and strict compliance with the minimum requirements for new construction and which are necessary to provide accessibility.

(k) EXCEPTION:

(i) These guidelines do not require the installation of an elevator in an altered facility that is less than three stories or has less than 3,000 square feet per story unless the building is a shopping center, a shopping mall, the professional office of a health care provider, or another type of facility as determined by the Attorney General.

(ii) The exemption provided in paragraph (i) does not obviate or limit in any way the obligation to comply with the other accessibility requirements established in these guidelines. For example, alterations to floors above or below the ground floor must be accessible regardless of whether the altered facility has an elevator. If a facility subject to the elevator exemption set forth in paragraph (i) nonetheless has a full passenger elevator, that elevator shall meet, to the maximum extent feasible, the accessibility requirements of these guidelines.

(2) Alterations to an Area Containing a Primary Function: In addition to the requirements of 4.1.6(1), an alteration that affects or could affect the usability of or access to an area containing a primary function shall be made so as to ensure that, to the maximum extent feasible, the path of travel to the altered area and the restrooms, telephones, and drinking fountains serving the altered area, are readily accessible to and usable by individuals with disabilities, unless such alterations are disproportionate to the overall alterations in terms of cost and scope (as determined under criteria established by the Attorney General).

(3) Special Technical Provisions for Alterations to Existing Buildings and Facilities:

(a) Ramps: Curb ramps and interior or exterior ramps to be constructed on sites or in existing buildings or facilities where space limitations prohibit the use of a 1:12 slope or less may have slopes and rises as follows:

(i) A slope between 1:10 and 1:12 is allowed for a maximum rise of 6 inches.

(ii) A slope between 1:8 and 1:10 is allowed for a maximum rise of 3 inches. A slope steeper than 1:8 is not allowed.

(b) Stairs: Full extension of handrails at stairs shall not be required in alterations where such extensions would be hazardous or impossible due to plan configuration.

(c) Elevators:

(i) If safety door edges are provided in existing automatic elevators, automatic door reopening devices may be omitted (see 4.10.6).

(ii) Where existing shaft configuration or technical infeasibility prohibits strict compliance with 4.10.9, the minimum car plan dimensions may be reduced by the minimum amount necessary, but in no case shall the inside car area be smaller than 48 in by 48 in.

(iii) Equivalent facilitation may be provided with an elevator car of different dimensions when usability can be demonstrated and when all other elements required to be accessible comply with the applicable provisions of 4.10. For example, an elevator of 47 in by 69 in (1195 mm by 1755 mm) with a door opening on the narrow dimension, could accommodate the standard wheelchair clearances shown in Figure 4.

(d) Doors:

(i) Where it is technically infeasible to comply with clear opening width requirements of 4.13.5, a projection of 5/8 in maximum will be permitted for the latch side stop.

(ii) If existing thresholds are 3/4 in high or less, and have (or are modified to have) a beveled edge on each side, they may remain.

(e) Toilet Rooms:

(i) Where it is technically infeasible to comply with 4.22 or 4.23, the installation of at least one unisex toilet/bathroom per floor, located in the same area as existing toilet facilities, will be permitted in lieu of modifying existing toilet facilities to be accessible. Each unisex toilet room shall contain one water closet complying with 4.16 and one lavatory complying with 4.19, and the door shall have a privacy latch.

4.1.7 Accessible Buildings: Historic Preservation

(ii) Where it is technically infeasible to install a required standard stall (Fig. 30(a)), or where other codes prohibit reduction of the fixture count (i.e., removal of a water closet in order to create a double-wide stall), either alternate stall (Fig.30(b)) may be provided in lieu of the standard stall.

(iii) When existing toilet or bathing facilities are being altered and are not made accessible, signage complying with 4.30.1, 4.30.2, 4.30.3, 4.30.5, and 4.30.7 shall be provided indicating the location of the nearest accessible toilet or bathing facility within the facility.

(f) Assembly Areas:

(i) Where it is technically infeasible to disperse accessible seating throughout an altered assembly area, accessible seating areas may be clustered. Each accessible seating area shall have provisions for companion seating and shall be located on an accessible route that also serves as a means of emergency egress.

(ii) Where it is technically infeasible to alter all performing areas to be on an accessible route, at least one of each type of performing area shall be made accessible.

(g) Platform Lifts (Wheelchair Lifts): In alterations, platform lifts (wheelchair lifts) complying with 4.11 and applicable state or local codes may be used as part of an accessible route. The use of lifts is not limited to the four conditions in exception 4 of 4.1.3(5)

(h) Dressing Rooms: In alterations where technical infeasibility can be demonstrated, one dressing room for each sex on each level shall be made accessible. Where only unisex dressing rooms are provided, accessible unisex dressing rooms may be used to fulfill this requirement.

4.1.7 Accessible Buildings: Historic Preservation.

(1) Applicability:

(a) General Rule. Alterations to a qualified historic building or facility shall comply with 4.1.6 Accessible Buildings: Alterations, the applicable technical specifications of 4.2

through 4.35 and the applicable special application sections 5 through 10 unless it is determined in accordance with the procedures in 4.1.7(2) that compliance with the requirements for accessible routes (exterior and interior), ramps, entrances, or toilets would threaten or destroy the historic significance of the building or facility in which case the alternative requirements in 4.1.7(3) may be used for the feature.

EXCEPTION: (Reserved).

(b) Definition. A qualified historic building or facility is a building or facility that is:

(i) Listed in or eligible for listing in the National Register of Historic Places; or

(ii) Designated as historic under an appropriate State or local law.

(2) Procedures:

(a) Alterations to Qualified Historic Buildings and Facilities Subject to Section 106 of the National Historic Preservation Act:

(i) Section 106 Process. Section 106 of the National Historic Preservation Act (16 U.S.C. 470 f) requires that a Federal agency with jurisdiction over a Federal, federally assisted, or federally licensed undertaking consider the effects of the agency's undertaking on buildings and facilities listed in or eligible for listing in the National Register of Historic Places and give the Advisory Council on Historic Preservation a reasonable opportunity to comment on the undertaking prior to approval of the undertaking.

(ii) ADA Application. Where alterations are undertaken to a qualified historic building or facility that is subject to section 106 of the National Historic Preservation Act, the Federal agency with jurisdiction over the undertaking shall follow the section 106 process. If the State Historic Preservation Officer or Advisory Council on Historic Preservation agrees that compliance with the requirements for accessible routes (exterior and interior), ramps, entrances, or toilets would threaten or destroy the historic significance of the building or facility, the alternative requirements in 4.1.7(3) may be used for the feature.

4.2 Space Allowance and Reach Ranges

(b) Alterations to Qualified Historic Buildings and Facilities Not Subject to Section 106 of the National Historic Preservation Act. Where alterations are undertaken to a qualified historic building or facility that is not subject to section 106 of the National Historic Preservation Act, if the entity undertaking the alterations believes that compliance with the requirements for accessible routes (exterior and interior), ramps, entrances, or toilets would threaten or destroy the historic significance of the building or facility and that the alternative requirements in 4.1.7(3) should be used for the feature, the entity should consult with the State Historic Preservation Officer. If the State Historic Preservation Officer agrees that compliance with the accessibility requirements for accessible routes (exterior and interior), ramps, entrances or toilets would threaten or destroy the historical significance of the building or facility, the alternative requirements in 4.1.7(3) may be used.

(c) Consultation With Interested Persons. Interested persons should be invited to participate in the consultation process, including State or local accessibility officials, individuals with disabilities, and organizations representing individuals with disabilities.

(d) Certified Local Government Historic Preservation Programs. Where the State Historic Preservation Officer has delegated the consultation responsibility for purposes of this section to a local government historic preservation program that has been certified in accordance with section 101(c) of the National Historic Preservation Act of 1966 (16 U.S.C. 470a (c)) and implementing regulations (36 CFR 61.5), the responsibility may be carried out by the appropriate local government body or official.

(3) Historic Preservation: Minimum Requirements:

(a) At least one accessible route complying with 4.3 from a site access point to an accessible entrance shall be provided.

EXCEPTION: A ramp with a slope no greater than 1:6 for a run not to exceed 2 ft (610 mm) may be used as part of an accessible route to an entrance.

(b) At least one accessible entrance complying with 4.14 which is used by the public shall be provided.

EXCEPTION: If it is determined that no entrance used by the public can comply with 4.14, then access at any entrance not used by the general public but open (unlocked) with directional signage at the primary entrance may be used. The accessible entrance shall also have a notification system. Where security is a problem, remote monitoring may be used.

(c) If toilets are provided, then at least one toilet facility complying with 4.22 and 4.1.6 shall be provided along an accessible route that complies with 4.3. Such toilet facility may be unisex in design.

(d) Accessible routes from an accessible entrance to all publicly used spaces on at least the level of the accessible entrance shall be provided. Access shall be provided to all levels of a building or facility in compliance with 4.1 whenever practical.

(e) Displays and written information, documents, etc., should be located where they can be seen by a seated person. Exhibits and signage displayed horizontally (e.g., open books), should be no higher than 44 in (1120 mm) above the floor surface.

NOTE: The technical provisions of sections 4.2 through 4.35 are the same as those of the American National Standard Institute's document A117.1-1980, except as noted in the text.

4.2 Space Allowance and Reach Ranges.

4.2.1* Wheelchair Passage Width. The minimum clear width for single wheelchair passage shall be 32 in (815 mm) at a point and 36 in (915 mm) continuously (see Fig. 1 and 24(e)).

4.2.2 Width for Wheelchair Passing. The minimum width for two wheelchairs to pass is 60 in (1525 mm) (see Fig. 2).

4.2.3* Wheelchair Turning Space. The space required for a wheelchair to make a 180-degree turn is a clear space of 60 in (1525 mm)

4.2.4* Clear Floor or Ground Space for Wheelchairs

diameter (see Fig. 3(a)) or a T-shaped space (see Fig. 3(b)).

4.2.4* Clear Floor or Ground Space for Wheelchairs.

4.2.4.1 Size and Approach. The minimum clear floor or ground space required to accommodate a single, stationary wheelchair and occupant is 30 in by 48 in (760 mm by 1220 mm) (see Fig. 4(a)). The minimum clear floor or ground space for wheelchairs may be positioned for forward or parallel approach to an object (see Fig. 4(b) and (c)). Clear floor or ground space for wheelchairs may be part of the knee space required under some objects.

4.2.4.2 Relationship of Maneuvering Clearance to Wheelchair Spaces. One full unobstructed side of the clear floor or ground space for a wheelchair shall adjoin or overlap an accessible route or adjoin another wheelchair clear floor space. If a clear floor space is located in an alcove or otherwise confined on all or part of three sides, additional maneuvering clearances shall be provided as shown in Fig. 4(d) and (e).

4.2.4.3 Surfaces for Wheelchair Spaces. Clear floor or ground spaces for wheelchairs shall comply with 4.5.

4.2.5* Forward Reach. If the clear floor space only allows forward approach to an object, the maximum high forward reach allowed shall be 48 in (1220 mm) (see Fig. 5(a)). *The minimum low forward reach is 15 in (380 mm).* If the high forward reach is over an obstruction, reach and clearances shall be as shown in Fig. 5(b).

4.2.6* Side Reach. If the clear floor space allows parallel approach by a person in a wheelchair, the maximum high side reach allowed shall be 54 in (1370 mm) and the low side reach shall be no less than 9 in (230 mm) above the floor (Fig. 6(a) and (b)). If the side reach is over an obstruction, the reach and clearances shall be as shown in Fig 6(c).

4.3 Accessible Route.

4.3.1* General. All walks, halls, corridors, aisles, *skywalks, tunnels*, and other spaces

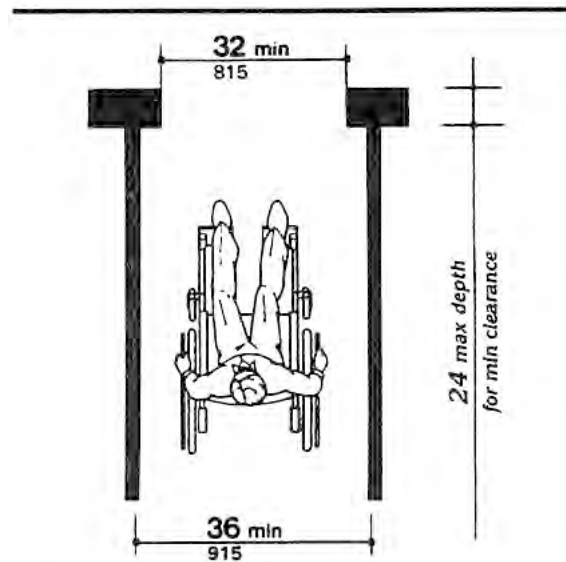


Fig. 1
Minimum Clear Width
for Single Wheelchair

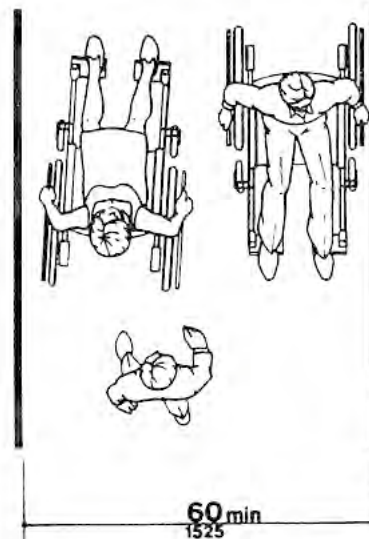


Fig. 2
Minimum Clear Width
for Two Wheelchairs

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4.3 Accessible Route

that are part of an accessible route shall comply with 4.3.

4.3.2 Location.

(1) At least one accessible route within the boundary of the site shall be provided from public transportation stops, accessible parking, and accessible passenger loading zones, and public streets or sidewalks to the accessible building entrance they serve. The accessible route shall, to the maximum extent feasible, coincide with the route for the general public.

(2) At least one accessible route shall connect accessible buildings, facilities, elements, and spaces that are on the same site.

(3) At least one accessible route shall connect accessible building or facility entrances with all accessible spaces and elements and with all accessible dwelling units within the building or facility.

(4) An accessible route shall connect at least one accessible entrance of each accessible

dwelling unit with those exterior and interior spaces and facilities that serve the accessible dwelling unit.

4.3.3 Width. The minimum clear width of an accessible route shall be 36 in (915 mm) except at doors (see 4.13.5 and 4.13.6). If a person in a wheelchair must make a turn around an obstruction, the minimum clear width of the accessible route shall be as shown in Fig. 7(a) and (b).

4.3.4 Passing Space. If an accessible route has less than 60 in (1525 mm) clear width, then passing spaces at least 60 in by 60 in (1525 mm by 1525 mm) shall be located at reasonable intervals not to exceed 200 ft (61 m). A T-intersection of two corridors or walks is an acceptable passing place.

4.3.5 Head Room. Accessible routes shall comply with 4.4.2.

4.3.6 Surface Textures. The surface of an accessible route shall comply with 4.5.

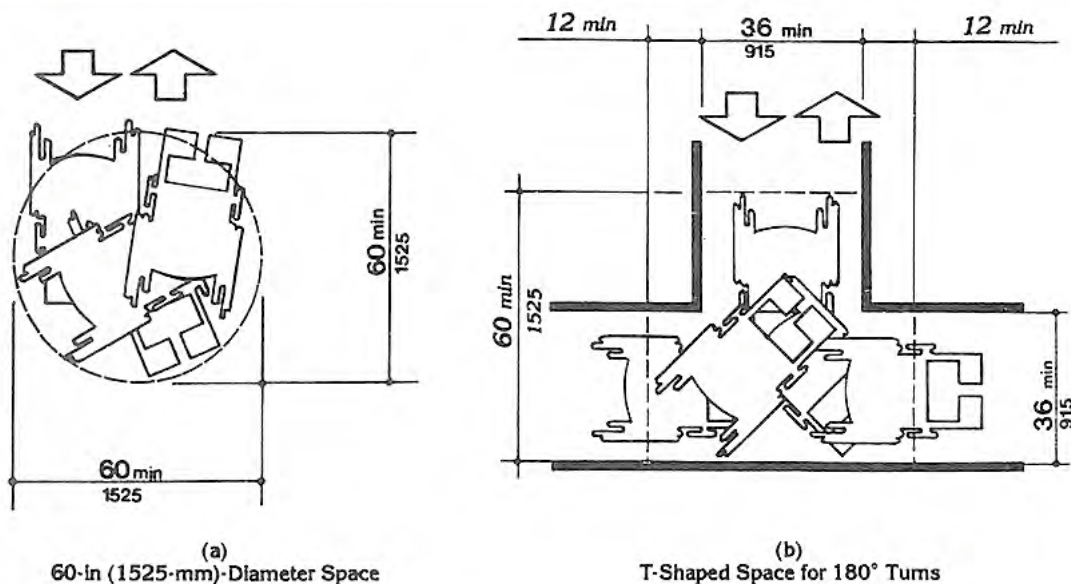


Fig. 3
Wheelchair Turning Space

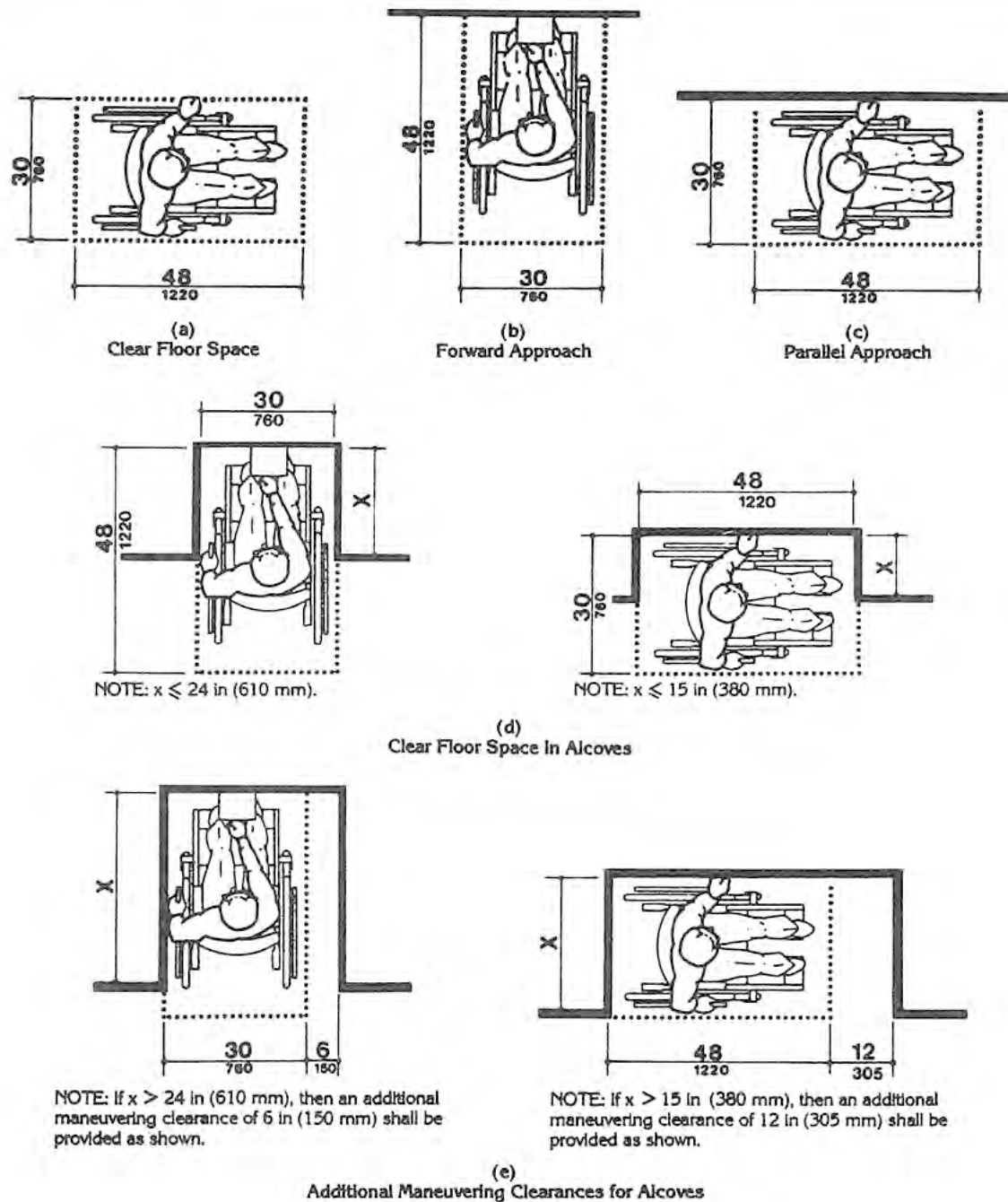
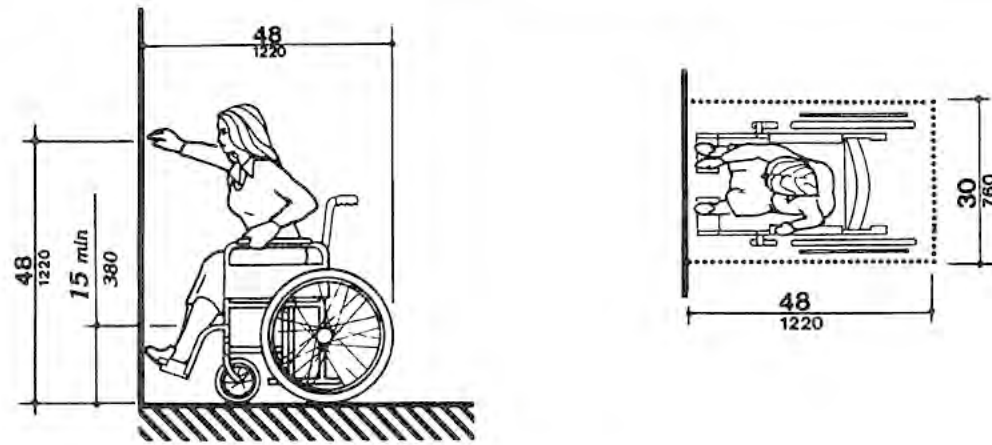
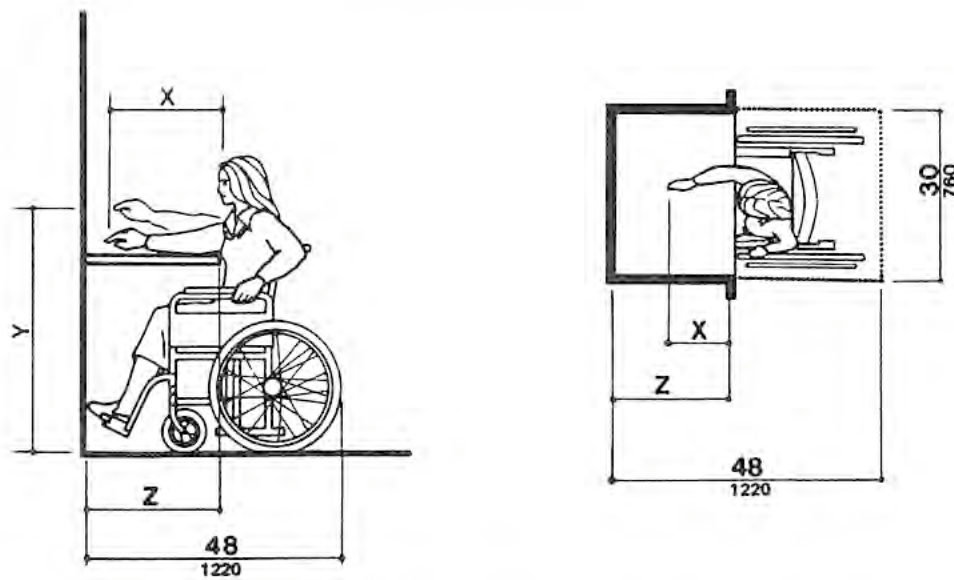


Fig. 4
Minimum Clear Floor Space for Wheelchairs

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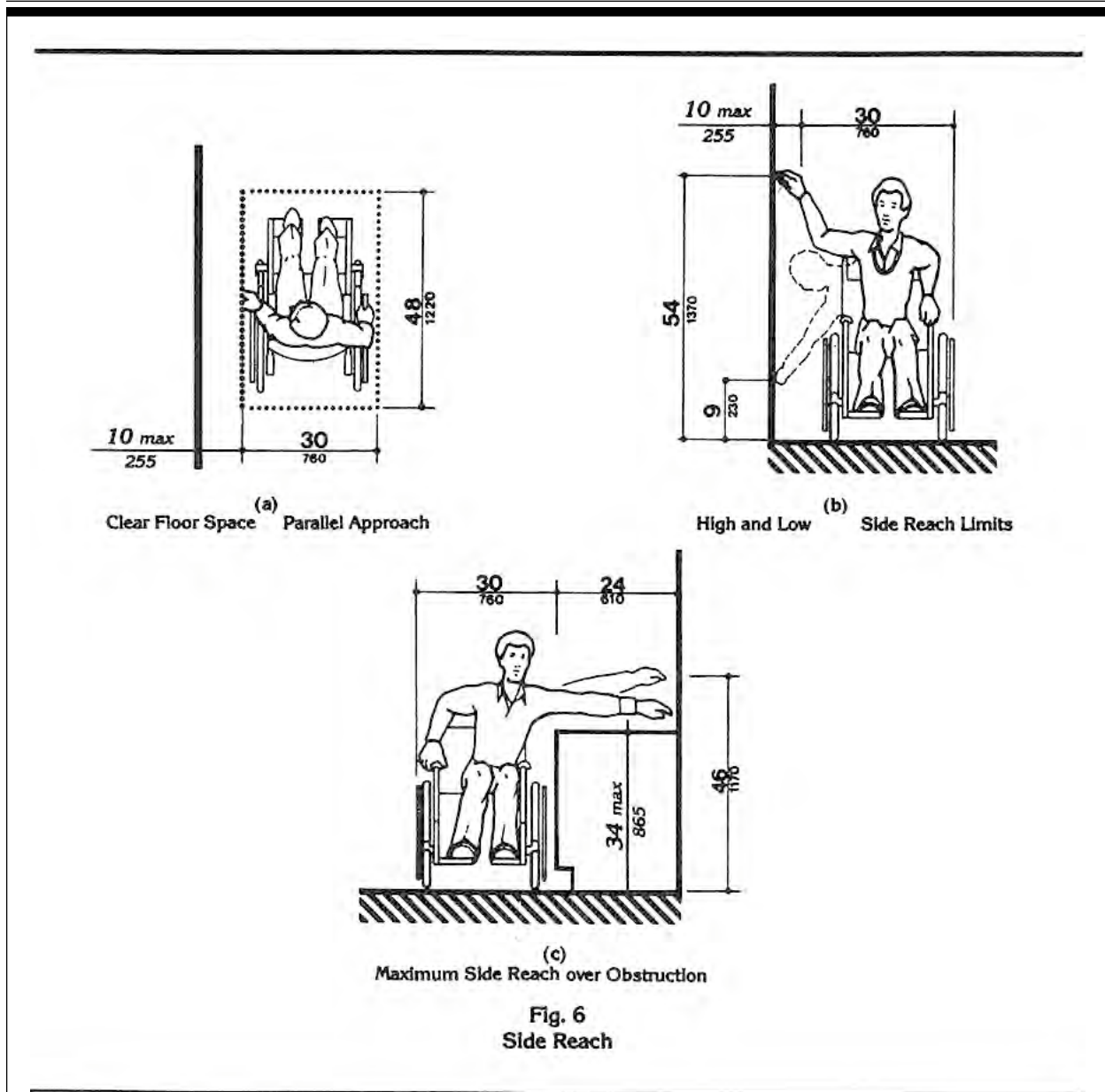
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4.3 Accessible Route

(a)
High Forward Reach Limit

NOTE: x shall be ≤ 25 in (635 mm); z shall be $\geq x$. When $x < 20$ in (510 mm), then y shall be 48 in (1220 mm) maximum. When x is 20 to 25 in (510 to 635 mm), then y shall be 44 in (1120 mm) maximum.

(b)
Maximum Forward Reach over an ObstructionFig. 5
Forward Reach



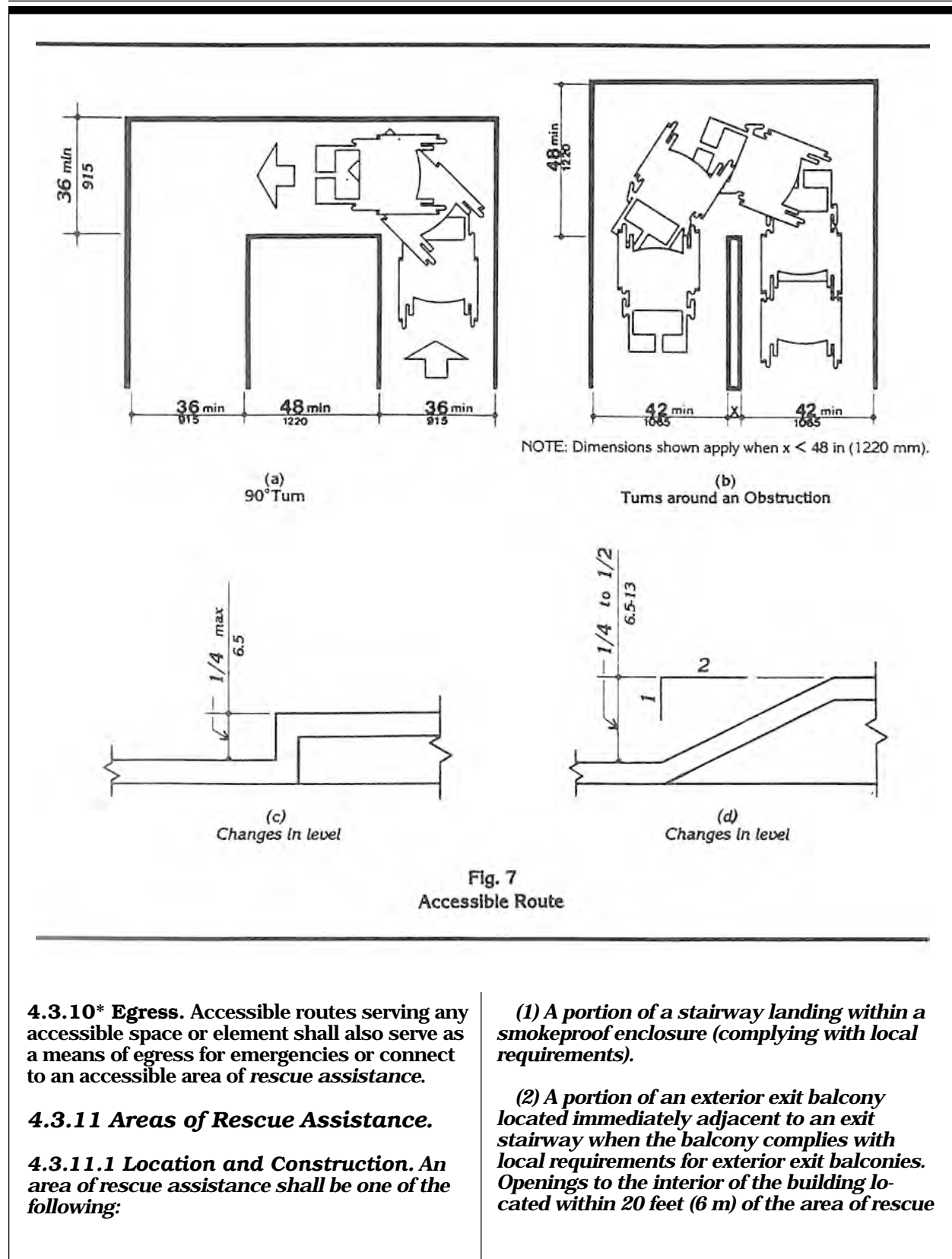
4.3.7 Slope. An accessible route with a running slope greater than 1:20 is a ramp and shall comply with 4.8. Nowhere shall the cross slope of an accessible route exceed 1:50.

4.3.8 Changes in Levels. Changes in levels along an accessible route shall comply with 4.5.2. If an accessible route has changes in level greater than 1/2 in (13 mm), then a curb

ramp, ramp, elevator, or platform lift (*as permitted in 4.1.3 and 4.1.6*) shall be provided that complies with 4.7, 4.8, 4.10, or 4.11, respectively. An accessible route does not include stairs, steps, or escalators. See definition of "egress, means of" in 3.5.

4.3.9 Doors. Doors along an accessible route shall comply with 4.13.

4.3.10* Egress



4.4 Protruding Objects

assistance shall be protected with fire assemblies having a three-fourths hour fire protection rating.

(3) A portion of a one-hour fire-resistive corridor (complying with local requirements for fire-resistive construction and for openings) located immediately adjacent to an exit enclosure.

(4) A vestibule located immediately adjacent to an exit enclosure and constructed to the same fire-resistive standards as required for corridors and openings.

(5) A portion of a stairway landing within an exit enclosure which is vented to the exterior and is separated from the interior of the building with not less than one-hour fire-resistive doors.

(6) When approved by the appropriate local authority, an area or a room which is separated from other portions of the building by a smoke barrier. Smoke barriers shall have a fire-resistive rating of not less than one hour and shall completely enclose the area or room. Doors in the smoke barrier shall be tight-fitting smoke- and draft-control assemblies having a fire-protection rating of not less than 20 minutes and shall be self-closing or automatic closing. The area or room shall be provided with an exit directly to an exit enclosure. Where the room or area exits into an exit enclosure which is required to be of more than one-hour fire-resistive construction, the room or area shall have the same fire-resistive construction, including the same opening protection, as required for the adjacent exit enclosure.

(7) An elevator lobby when elevator shafts and adjacent lobbies are pressurized as required for smokeproof enclosures by local regulations and when complying with requirements herein for size, communication, and signage. Such pressurization system shall be activated by smoke detectors on each floor located in a manner approved by the appropriate local authority. Pressurization equipment and its duct work within the building shall be separated from other portions of the building by a minimum two-hour fire-resistive construction.

4.3.11.2 Size. Each area of rescue assistance shall provide at least two accessible areas each being not less than 30 inches by 48 inches (760 mm by 1220 mm). The area of

rescue assistance shall not encroach on any required exit width. The total number of such 30-inch by 48-inch (760 mm by 1220 mm) areas per story shall be not less than one for every 200 persons of calculated occupant load served by the area of rescue assistance.

EXCEPTION: The appropriate local authority may reduce the minimum number of 30-inch by 48-inch (760 mm by 1220 mm) areas to one for each area of rescue assistance on floors where the occupant load is less than 200.

4.3.11.3* Stairway Width. Each stairway adjacent to an area of rescue assistance shall have a minimum clear width of 48 inches between handrails.

4.3.11.4* Two-way Communication. A method of two-way communication, with both visible and audible signals, shall be provided between each area of rescue assistance and the primary entry. The fire department or appropriate local authority may approve a location other than the primary entry.

4.3.11.5 Identification. Each area of rescue assistance shall be identified by a sign which states "AREA OF RESCUE ASSISTANCE" and displays the international symbol of accessibility. The sign shall be illuminated when exit sign illumination is required. Signage shall also be installed at all inaccessible exits and where otherwise necessary to clearly indicate the direction to areas of rescue assistance. In each area of rescue assistance, instructions on the use of the area under emergency conditions shall be posted adjoining the two-way communication system.

4.4 Protruding Objects.

4.4.1* General. Objects projecting from walls (for example, telephones) with their leading edges between 27 in and 80 in (685 mm and 2030 mm) above the finished floor shall protrude no more than 4 in (100 mm) into walks, halls, corridors, passageways, or aisles (see Fig. 8(a)). Objects mounted with their leading edges at or below 27 in (685 mm) above the finished floor may protrude any amount (see Fig. 8(a) and (b)). Free-standing objects mounted on posts or pylons may overhang 12 in (305 mm) maximum from 27 in to 80 in (685 mm to 2030 mm) above the ground or finished floor (see Fig.

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4.4 Protruding Objects

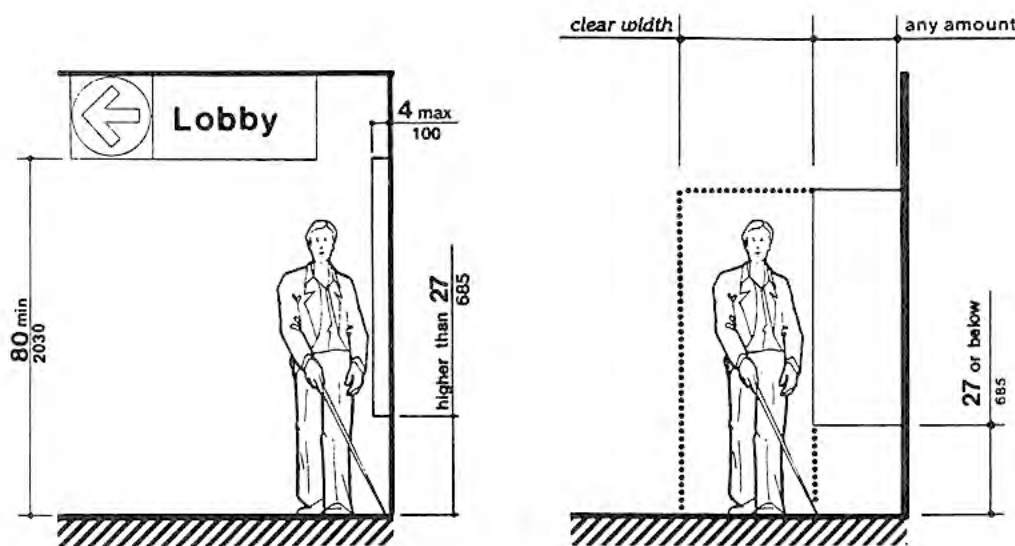


Fig. 8 (a)
Walking Parallel to a Wall

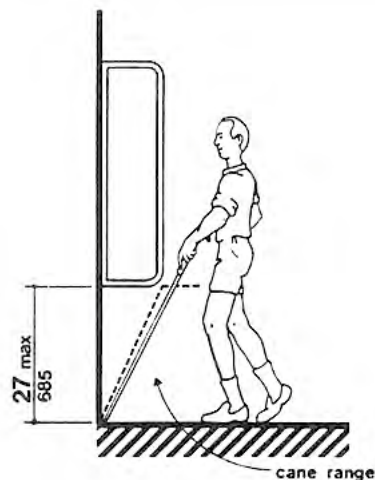


Fig. 8 (b)
Walking Perpendicular to a Wall

Fig. 8
Protruding Objects

8(c) and (d)). Protruding objects shall not reduce the clear width of an accessible route or maneuvering space (see Fig. 8(e)).

4.4.2 Head Room. Walks, halls, corridors, passageways, aisles, or other circulation spaces shall have 80 in (2030 mm) minimum clear head room (see Fig. 8(a)). *If vertical clearance of an area adjoining an accessible route is reduced to less than 80 in (nominal dimension), a barrier to warn blind or visually-impaired persons shall be provided (see Fig. 8(c-1)).*

4.5 Ground and Floor Surfaces.

4.5.1* General. Ground and floor surfaces along accessible routes and in accessible rooms and spaces including floors, walks, ramps, stairs, and curb ramps, shall be stable, firm, slip-resistant, and shall comply with 4.5.

4.5.2 Changes in Level. Changes in level up to 1/4 in (6 mm) may be vertical and without edge treatment (see Fig. 7(c)). Changes in level between 1/4 in and 1/2 in (6 mm and 13 mm)

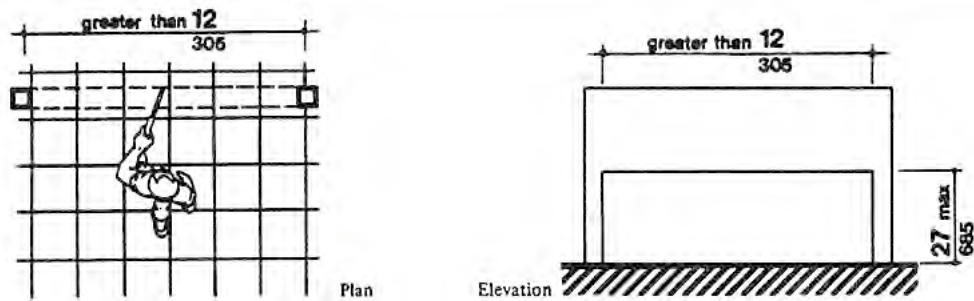


Fig. 8 (c) Free-Standing Overhanging Objects

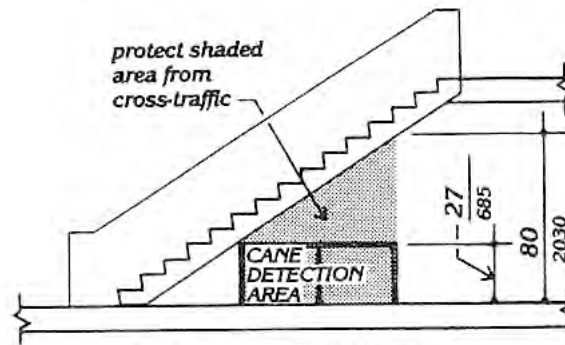
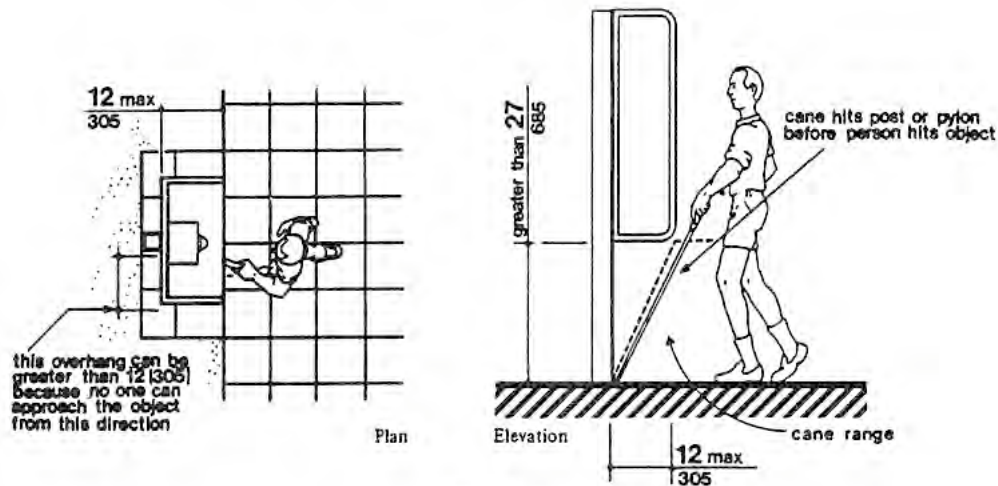


Fig. 8 (c-1) Overhead Hazards

Fig. 8 (d)
Objects Mounted on Posts or PylonsFig. 8
Protruding Objects (Continued)

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4.5 Ground and Floor Surfaces

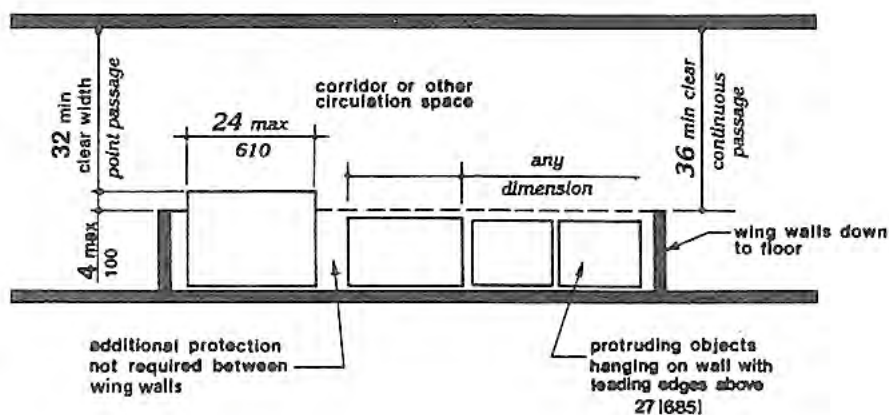


Fig. 8 (e)

Example of Protection around Wall-Mounted Objects and Measurements of Clear Widths

Fig. 8

Protruding Objects (Continued)

shall be beveled with a slope no greater than 1:2 (see Fig. 7(d)). Changes in level greater than 1/2 in (13 mm) shall be accomplished by means of a ramp that complies with 4.7 or 4.8.

4.5.3* Carpet. If carpet or carpet tile is used on a ground or floor surface, then it shall be securely attached; have a firm cushion, pad, or backing, or no cushion or pad; and have a level loop, textured loop, level cut pile, or level cut/uncut pile texture. The maximum pile *thickness* shall be 1/2 in (13 mm) (see Fig. 8(f)). Exposed edges of carpet shall be fastened to floor surfaces and have trim along the entire length of the exposed edge. Carpet edge trim shall comply with 4.5.2.

4.5.4 Gratings. If gratings are located in walking surfaces, then they shall have spaces no greater than 1/2 in (13 mm) wide in one direction (see Fig. 8(g)). If gratings have elongated openings, then they shall be placed so that the long dimension is perpendicular to the dominant direction of travel (see Fig. 8(h)).

4.6 Parking and Passenger Loading Zones.

4.6.1 Minimum Number. *Parking spaces required to be accessible by 4.1 shall comply with 4.6.2 through 4.6.5. Passenger loading zones required to be accessible by 4.1 shall comply with 4.6.5 and 4.6.6.*

4.6 Parking and Passenger Loading Zones

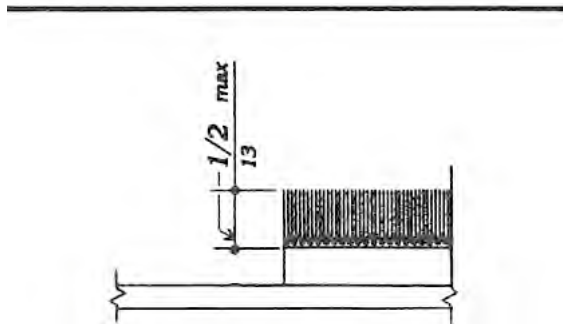


Fig. 8 (f)
Carpet Pile Thickness

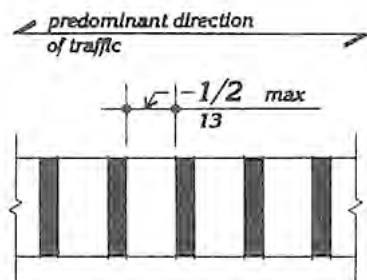


Fig. 8 (g)
Gratings

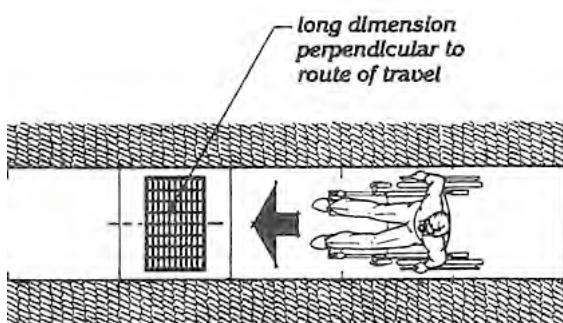


Fig. 8 (h)
Grating Orientation

4.6.2 Location. Accessible parking spaces serving a particular building shall be located on the shortest accessible route of travel from adjacent parking to an accessible entrance. In parking facilities that do not serve a particular building, accessible parking shall be located on the shortest accessible route of travel to an accessible pedestrian entrance of the parking facility. In buildings with multiple accessible entrances with adjacent parking, accessible parking spaces shall be dispersed and located closest to the accessible entrances.

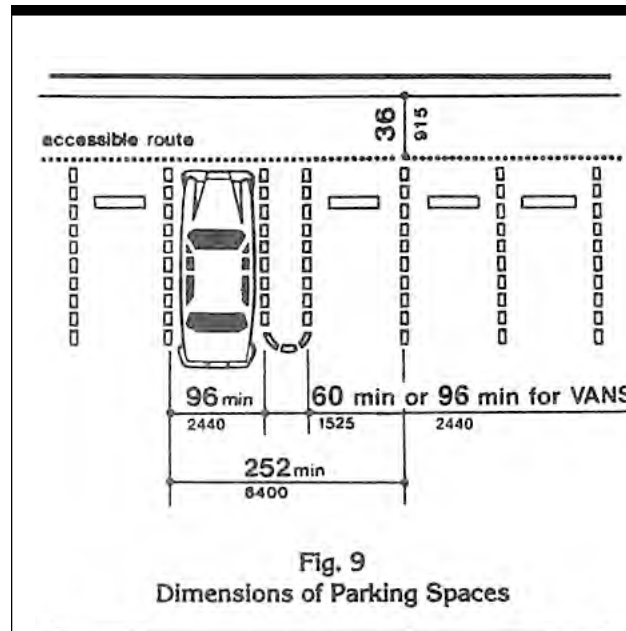
4.6.3* Parking Spaces. Accessible parking spaces shall be at least 96 in (2440 mm) wide. Parking access aisles shall be part of an accessible route to the building or facility entrance and shall comply with 4.3. Two accessible parking spaces may share a common access aisle (see Fig. 9). Parked vehicle overhangs shall not reduce the clear width of an accessible route. Parking spaces and access aisles shall be level with surface slopes not exceeding 1:50 (2%) in all directions.

4.6.4* Signage. Accessible parking spaces shall be designated as reserved by a sign showing the symbol of accessibility (see 4.30.7). Spaces complying with 4.1.2(5)(b) shall have an additional sign "Van-Accessible" mounted below the symbol of accessibility. Such signs shall be located so they cannot be obscured by a vehicle parked in the space.

4.6.5* Vertical Clearance. Provide minimum vertical clearance of 114 in (2895 mm) at accessible passenger loading zones and along at least one vehicle access route to such areas from site entrance(s) and exit(s). At parking spaces complying with 4.1.2(5)(b), provide minimum vertical clearance of 98 in (2490 mm) at the parking space and along at least one vehicle access route to such spaces from site entrance(s) and exit(s).

4.6.6 Passenger Loading Zones. Passenger loading zones shall provide an access aisle at least 60 in (1525 mm) wide and 20 ft (240 in)(6100 mm) long adjacent and parallel to the vehicle pull-up space (see Fig. 10). If there are curbs between the access aisle and the vehicle pull-up space, then a curb ramp complying with 4.7 shall be provided. Vehicle standing spaces and access aisles shall be level with surface

4.7 Curb Ramps



slopes not exceeding 1:50 (2%) in all directions.

4.7 Curb Ramps.

4.7.1 Location. Curb ramps complying with 4.7 shall be provided wherever an accessible route crosses a curb.

4.7.2 Slope. Slopes of curb ramps shall comply with 4.8.2. The slope shall be measured as shown in Fig. 11. *Transitions from ramps to walks, gutters, or streets shall be flush and free of abrupt changes. Maximum slopes of adjoining gutters, road surface immediately adjacent to the curb ramp, or accessible route shall not exceed 1:20.*

4.7.3 Width. The minimum width of a curb ramp shall be 36 in (915 mm), exclusive of flared sides.

4.7.4 Surface. Surfaces of curb ramps shall comply with 4.5.

4.7.5 Sides of Curb Ramps. If a curb ramp is located where pedestrians must walk across the ramp, or where it is not protected by handrails or guardrails, it shall have flared sides; the maximum slope of the flare shall be 1:10 (see Fig. 12(a)). Curb ramps with returned

curbs may be used where pedestrians would not normally walk across the ramp (see Fig. 12(b)).

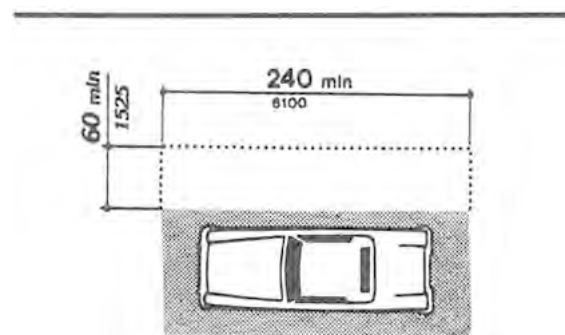
4.7.6 Built-up Curb Ramps. Built-up curb ramps shall be located so that they do not project into vehicular traffic lanes (see Fig. 13).

4.7.7 Detectable Warnings. A curb ramp shall have a detectable warning complying with 4.29.2. *The detectable warning shall extend the full width and depth of the curb ramp.*

4.7.8 Obstructions. Curb ramps shall be located or protected to prevent their obstruction by parked vehicles.

4.7.9 Location at Marked Crossings. Curb ramps at marked crossings shall be wholly contained within the markings, excluding any flared sides (see Fig. 15).

4.7.10 Diagonal Curb Ramps. If diagonal (or corner type) curb ramps have returned curbs or other well-defined edges, such edges shall be parallel to the direction of pedestrian flow. The bottom of diagonal curb ramps shall have 48 in (1220 mm) minimum clear space as shown in Fig. 15(c) and (d). If diagonal curb ramps are provided at marked crossings, the 48 in (1220 mm) clear space shall be within the markings (see Fig. 15(c) and (d)). If diagonal curb ramps have flared sides, they shall also have at least a 24 in (610 mm) long segment of straight curb located on each side of the curb ramp and within the marked crossing (see Fig. 15(c)).



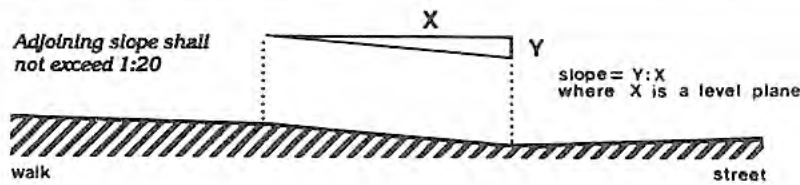
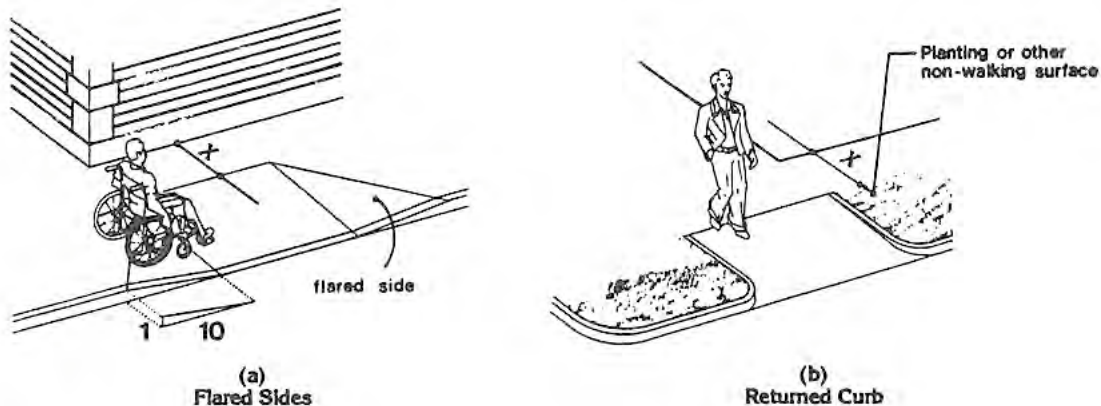


Fig. 11
Measurement of Curb Ramp Slopes



If X is less than 48 in,
then the slope of the flared side
shall not exceed 1:12.

Fig. 12
Sides of Curb Ramps

4.7.11 Islands. Any raised islands in crossings shall be cut through level with the street or have curb ramps at both sides and a level area at least 48 in (1220 mm) long between the curb ramps in the part of the island intersected by the crossings (see Fig. 15(a) and (b)).

4.8 Ramps.

4.8.1* General. Any part of an accessible route with a slope greater than 1:20 shall be considered a ramp and shall comply with 4.8.

4.8.2* Slope and Rise. The least possible slope shall be used for any ramp. The maximum slope of a ramp in new construction shall be 1:12. The maximum rise for any run shall be 30 in (760 mm) (see Fig. 16). Curb ramps and

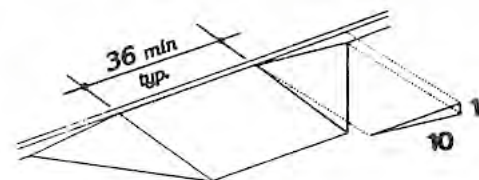


Fig. 13
Built-Up Curb Ramp

ramps to be constructed on existing sites or in existing buildings or facilities may have slopes and rises as *allowed in 4.1.6(3)(a)* if space limitations prohibit the use of a 1:12 slope or less.

4.8 Ramps

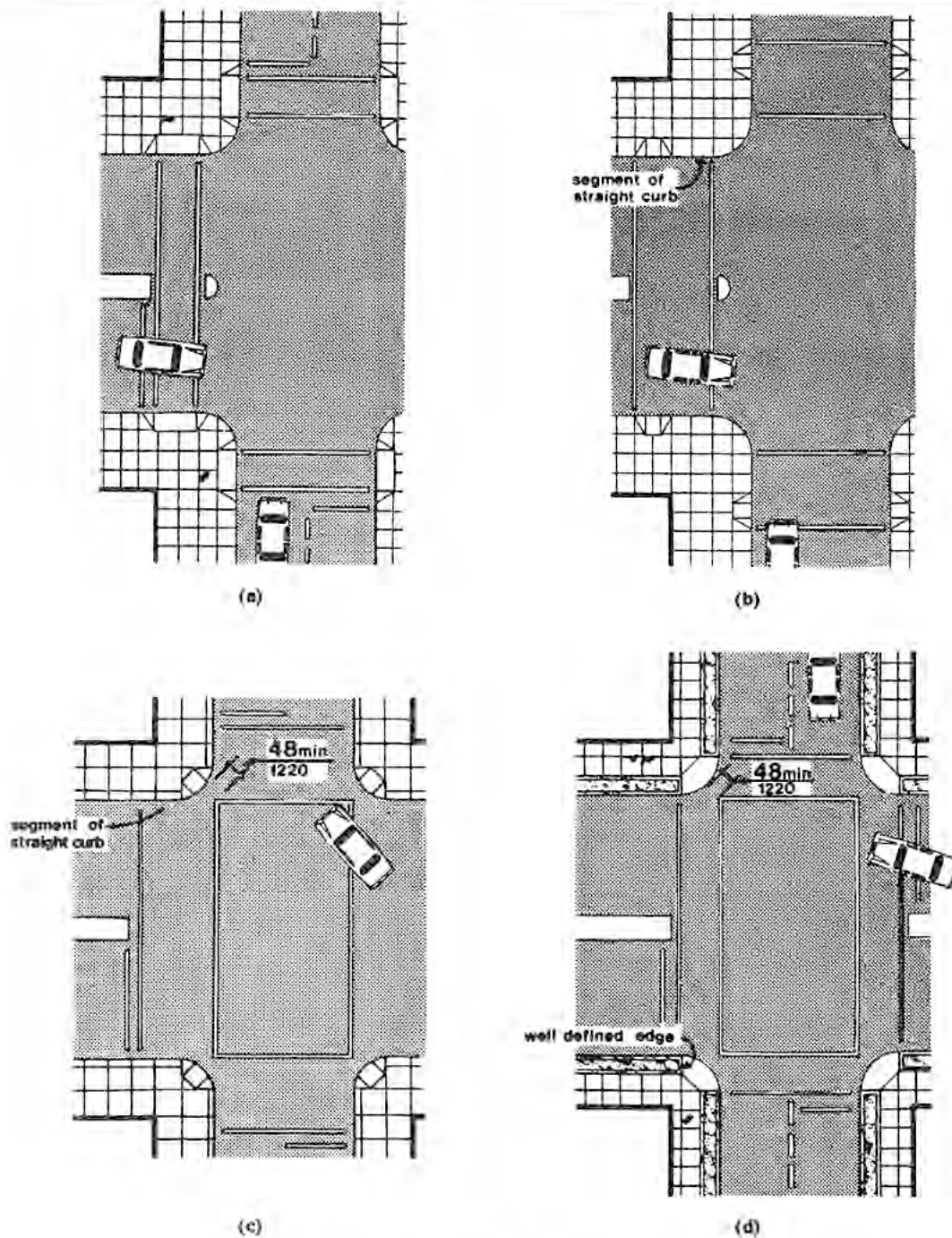


Fig. 15
Curb Ramps at Marked Crossings

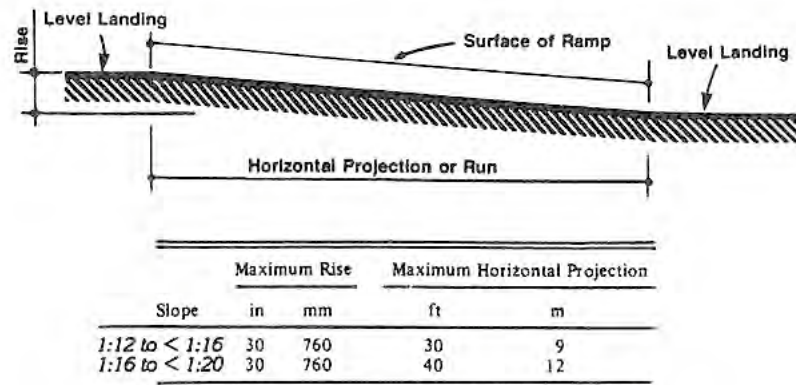


Fig. 16
Components of a Single Ramp Run and Sample Ramp Dimensions

4.8.3 Clear Width. The minimum clear width of a ramp shall be 36 in (915 mm).

4.8.4* Landings. Ramps shall have level landings at bottom and top of each ramp and each ramp run. Landings shall have the following features:

(1) The landing shall be at least as wide as the ramp run leading to it.

(2) The landing length shall be a minimum of 60 in (1525 mm) clear.

(3) If ramps change direction at landings, the minimum landing size shall be 60 in by 60 in (1525 mm by 1525 mm).

(4) If a doorway is located at a landing, then the area in front of the doorway shall comply with 4.13.6.

4.8.5* Handrails. If a ramp run has a rise greater than 6 in (150 mm) or a horizontal projection greater than 72 in (1830 mm), then it shall have handrails on both sides. Handrails are not required on curb ramps or *adjacent to seating in assembly areas*. Handrails shall comply with 4.26 and shall have the following features:

(1) Handrails shall be provided along both sides of ramp segments. The inside handrail on switchback or dogleg ramps shall always be continuous.

(2) If handrails are not continuous, they shall extend at least 12 in (305 mm) beyond the top and bottom of the ramp segment and shall be parallel with the floor or ground surface (see Fig. 17).

(3) The clear space between the handrail and the wall shall be 1 - 1/2 in (38 mm).

(4) Gripping surfaces shall be continuous.

(5) *Top of handrail gripping surfaces shall be mounted between 34 in and 38 in (865 mm and 965 mm) above ramp surfaces.*

(6) *Ends of handrails shall be either rounded or returned smoothly to floor, wall, or post.*

(7) *Handrails shall not rotate within their fittings.*

4.8.6 Cross Slope and Surfaces. The cross slope of ramp surfaces shall be no greater than 1:50. Ramp surfaces shall comply with 4.5.

4.9 Stairs

4.8.7 Edge Protection. Ramps and landings with drop-offs shall have curbs, walls, railings, or projecting surfaces that prevent people from slipping off the ramp. Curbs shall be a minimum of 2 in (50 mm) high (see Fig. 17).

4.8.8 Outdoor Conditions. Outdoor ramps and their approaches shall be designed so that water will not accumulate on walking surfaces.

4.9 Stairs.

4.9.1* Minimum Number. *Stairs required to be accessible by 4.1 shall comply with 4.9.*

4.9.2 Treads and Risers. On any given flight of stairs, all steps shall have uniform riser heights and uniform tread widths. Stair treads shall be no less than 11 in (280 mm) wide, measured from riser to riser (see Fig. 18(a)). *Open risers are not permitted.*

4.9.3 Nosings. The undersides of nosings shall not be abrupt. The radius of curvature at the leading edge of the tread shall be no greater than 1/2 in (13 mm). Risers shall be sloped or the underside of the nosing shall have an angle not less than 60 degrees from the horizontal. Nosings shall project no more than 1-1/2 in (38 mm) (see Fig. 18).

4.9.4 Handrails. Stairways shall have handrails at both sides of all stairs. Handrails shall comply with 4.26 and shall have the following features:

(1) Handrails shall be continuous along both sides of stairs. The inside handrail on switchback or dogleg stairs shall always be continuous (see Fig. 19(a) and (b)).

(2) If handrails are not continuous, they shall extend at least 12 in (305 mm) beyond the top riser and at least 12 in (305 mm) plus the width of one tread beyond the bottom riser. At the top, the extension shall be parallel with the floor or ground surface. At the bottom, the handrail shall continue to slope for a distance of the width of one tread from the bottom riser; the remainder of the extension shall be horizontal (see Fig. 19(c) and (d)). Handrail extensions shall comply with 4.4.

(3) The clear space between handrails and wall shall be 1-1/2 in (38 mm).

(4) Gripping surfaces shall be uninterrupted by newel posts, other construction elements, or obstructions.

(5) *Top of handrail gripping surface shall be mounted between 34 in and 38 in (865 mm and 965 mm) above stair nosings.*

(6) *Ends of handrails shall be either rounded or returned smoothly to floor, wall or post.*

(7) *Handrails shall not rotate within their fittings.*

4.9.5 Detectable Warnings at Stairs. *(Reserved).*

4.9.6 Outdoor Conditions. Outdoor stairs and their approaches shall be designed so that water will not accumulate on walking surfaces.

4.10 Elevators.

4.10.1 General. Accessible elevators shall be on an accessible route and shall comply with 4.10 and with the ASME A17.1-1990, Safety Code for Elevators and Escalators. *Freight elevators shall not be considered as meeting the requirements of this section unless the only elevators provided are used as combination passenger and freight elevators for the public and employees.*

4.10.2 Automatic Operation. Elevator operation shall be automatic. Each car shall be equipped with a self-leveling feature that will automatically bring the car to floor landings within a tolerance of 1/2 in (13 mm) under rated loading to zero loading conditions. This self-leveling feature shall be automatic and independent of the operating device and shall correct the overtravel or undertravel.

4.10.3 Hall Call Buttons. Call buttons in elevator lobbies and halls shall be centered at 42 in (1065 mm) above the floor. Such call buttons shall have visual signals to indicate when each call is registered and when each call is answered. Call buttons shall be a minimum of 3/4 in (19 mm) in the smallest dimension. The button designating the up direction shall be on top. (See Fig. 20.) *Buttons shall be raised or flush. Objects mounted beneath hall call buttons shall not project into the elevator lobby more than 4 in (100 mm).*

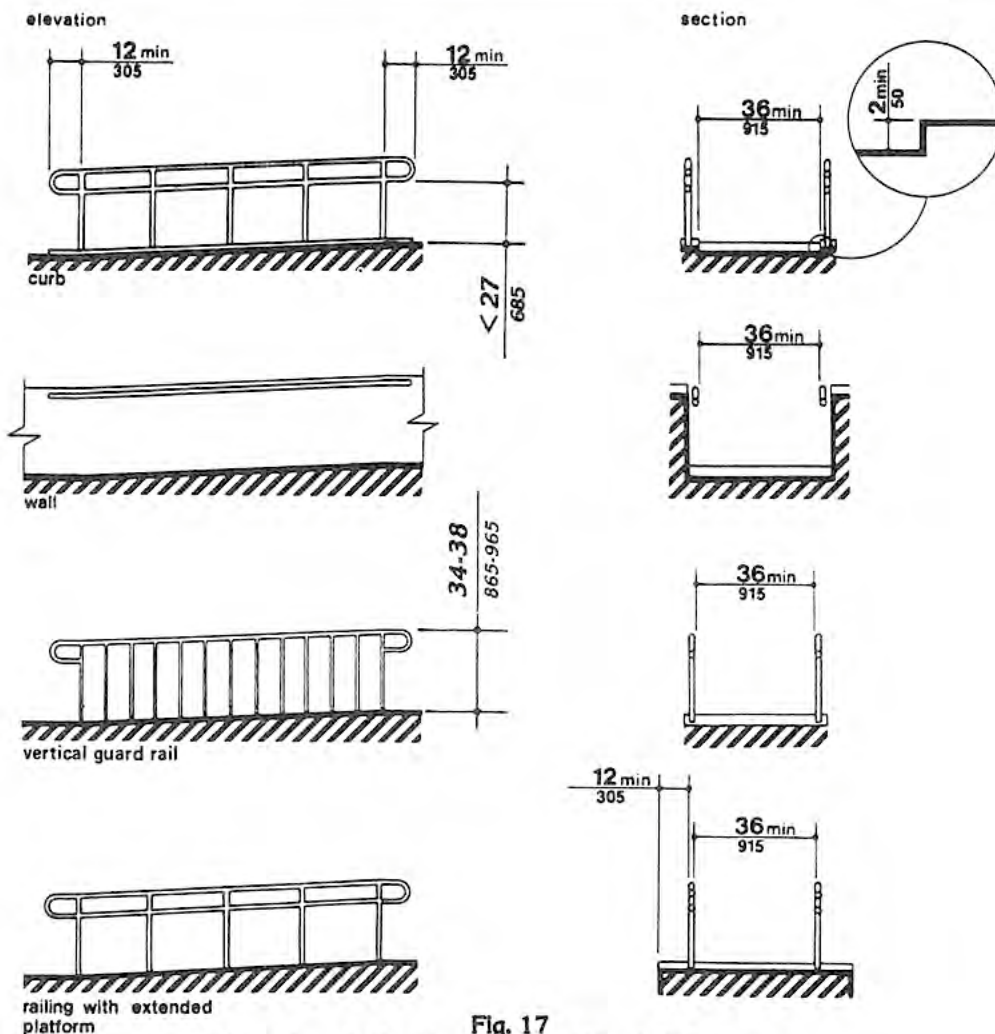


Fig. 17
Examples of Edge Protection and Handrail Extensions

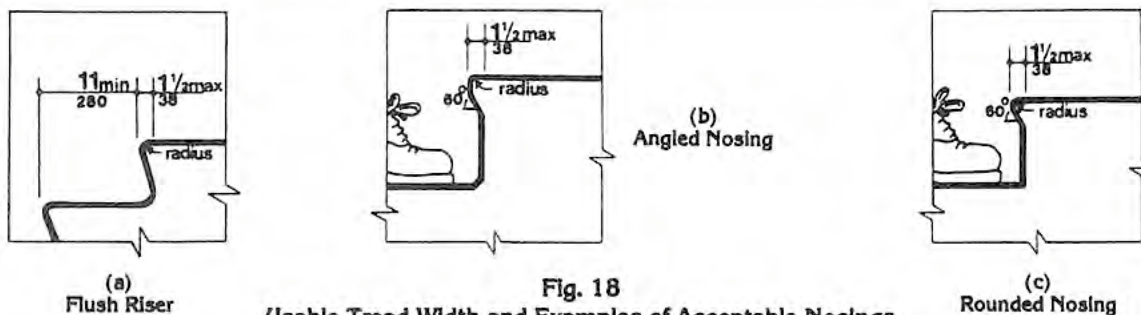
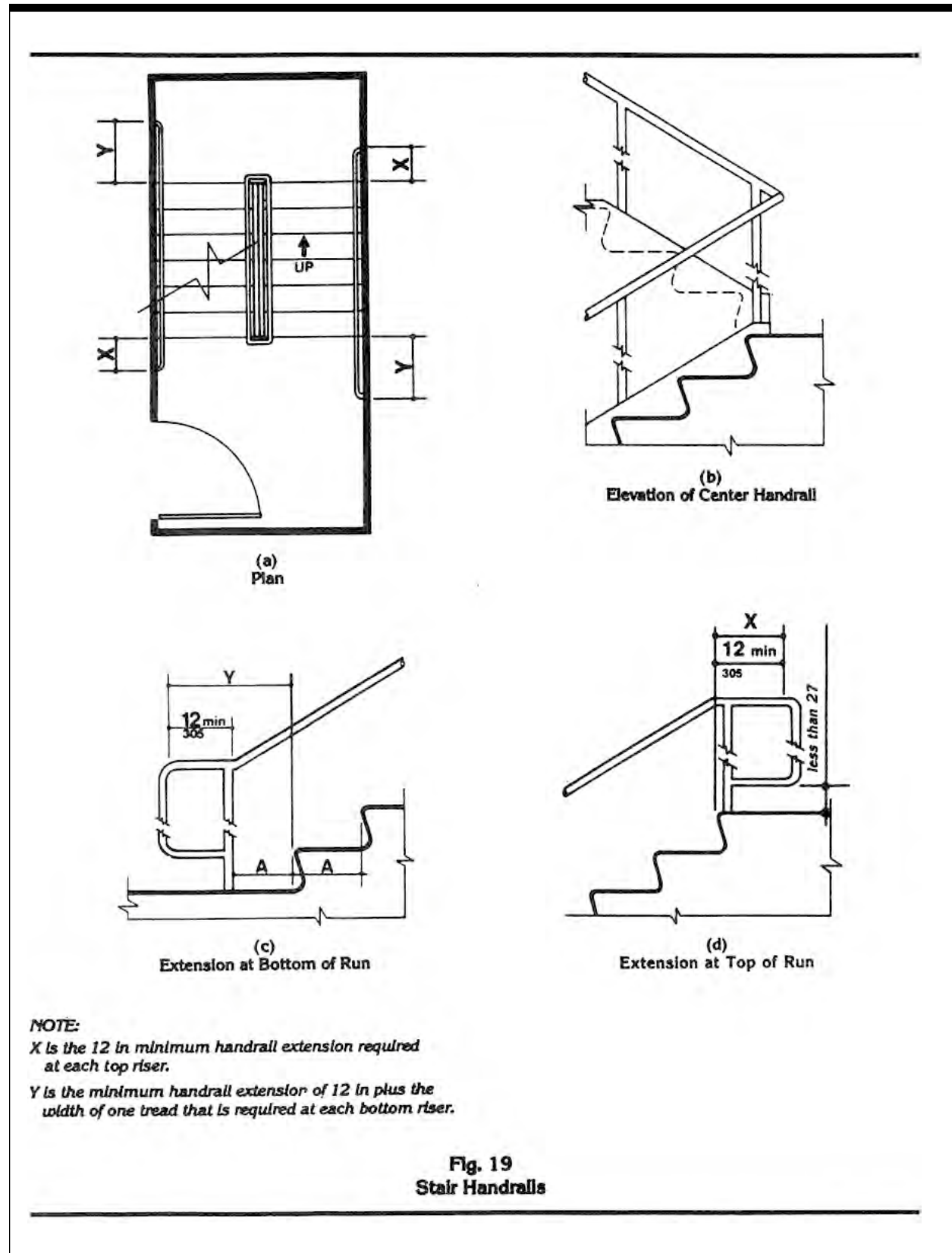


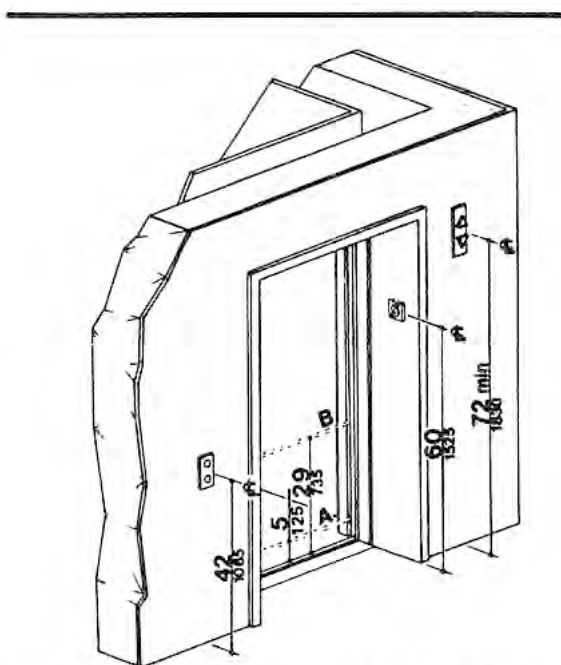
Fig. 18
Usable Tread Width and Examples of Acceptable Nosings

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4.10 Elevators





NOTE: The automatic door reopening device is activated if an object passes through either line A or line B. Line A and line B represent the vertical locations of the door reopening device not requiring contact.

Fig. 20
Hoistway and Elevator Entrances

4.10.4 Hall Lanterns. A visible and audible signal shall be provided at each hoistway entrance to indicate which car is answering a call. Audible signals shall sound once for the up direction and twice for the down direction or shall have verbal annunciators that say "up" or "down." Visible signals shall have the following features:

- (1) Hall lantern fixtures shall be mounted so that their centerline is at least 72 in (1830 mm) above the lobby floor. (See Fig. 20.)
- (2) Visual elements shall be at least 2-1/2 in (64 mm) in the smallest dimension.
- (3) Signals shall be visible from the vicinity of the hall call button (see Fig. 20). In-car lanterns located in cars, visible from the vicinity of hall call buttons, and conforming to the above requirements, shall be acceptable.

4.10.5 Raised and Braille Characters on Hoistway Entrances. All elevator hoistway entrances shall have *raised and Braille* floor designations provided on both jambs. The centerline of the characters shall be 60 in (1525 mm) *above finish* floor. Such characters shall be 2 in (50 mm) high and shall comply with 4.30.4. Permanently applied plates are acceptable if they are permanently fixed to the jambs. (See Fig. 20).

4.10.6* Door Protective and Reopening Device. Elevator doors shall open and close automatically. They shall be provided with a reopening device that will stop and reopen a car door and hoistway door automatically if the door becomes obstructed by an object or person. The device shall be capable of completing these operations without requiring contact for an obstruction passing through the opening at heights of 5 in and 29 in (125 mm and 735 mm) above finish floor (see Fig. 20). Door reopening devices shall remain effective for at least 20 seconds. After such an interval, doors may close in accordance with the requirements of ASME A17.1-1990.

4.10.7* Door and Signal Timing for Hall Calls. The minimum acceptable time from notification that a car is answering a call until the doors of that car start to close shall be calculated from the following equation:

$$T = D/(1.5 \text{ ft/s}) \text{ or } T = D/(445 \text{ mm/s})$$

where T total time in seconds and D distance (in feet or millimeters) from a point in the lobby or corridor 60 in (1525 mm) directly in front of the farthest call button controlling that car to the centerline of its hoistway door (see Fig. 21). For cars with in-car lanterns, T begins when the lantern is visible from the vicinity of hall call buttons and an audible signal is sounded. *The minimum acceptable notification time shall be 5 seconds.*

4.10.8 Door Delay for Car Calls. The minimum time for elevator doors to remain fully open in response to a car call shall be 3 seconds.

4.10.9 Floor Plan of Elevator Cars. The floor area of elevator cars shall provide space for wheelchair users to enter the car, maneuver

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4.10.12 Car Controls

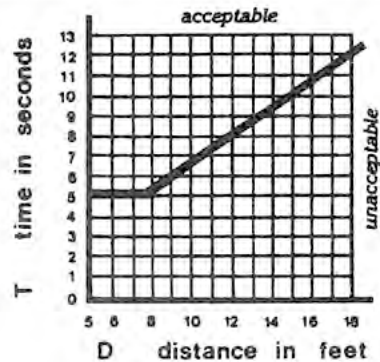


Fig. 21
Graph of Timing Equation

within reach of controls, and exit from the car. Acceptable door opening and inside dimensions shall be as shown in Fig. 22. The clearance between the car platform sill and the edge of any hoistway landing shall be no greater than 1-1/4 in (32 mm).

4.10.10 Floor Surfaces. Floor surfaces shall comply with 4.5.

4.10.11 Illumination Levels. The level of illumination at the car controls, platform, and car threshold and landing sill shall be at least 5 footcandles (53.8 lux).

4.10.12* Car Controls. Elevator control panels shall have the following features:

(1) Buttons. All control buttons shall be at least 3/4 in (19 mm) in their smallest dimension. They *shall* be *raised* or flush.

(2) Tactile, Braille, and Visual Control Indicators. All control buttons shall be designated by Braille and by raised standard alphabet characters for letters, arabic characters for numerals, or standard symbols as shown in Fig. 23(a), and as required in ASME A17.1-1990. Raised and Braille characters and symbols shall comply with 4.30. The call button for the main entry floor shall be designated by a raised star at the left of the floor designation (see Fig. 23(a)). All raised designations for control buttons shall be placed immediately to the left of the button to which they apply. Applied plates, permanently

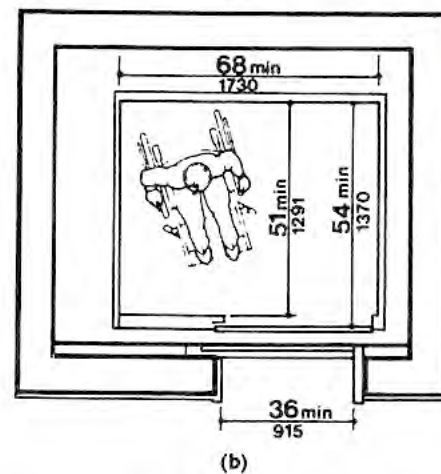
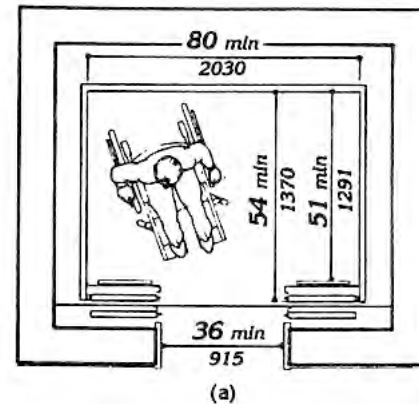


Fig. 22
Minimum Dimensions of Elevator Cars

attached, are an acceptable means to provide raised control designations. Floor buttons shall be provided with visual indicators to show when each call is registered. The visual indicators shall be extinguished when each call is answered.

(3) Height. All floor buttons shall be no higher than 54 in (1370 mm) above the *finish floor for side approach* and 48 in (1220 mm) *for front approach*. Emergency controls, including the emergency alarm and emergency stop, shall be grouped at the bottom of the panel and shall have their centerlines no less than 35 in (890 mm) above the finish floor (see Fig. 23(a) and (b)).

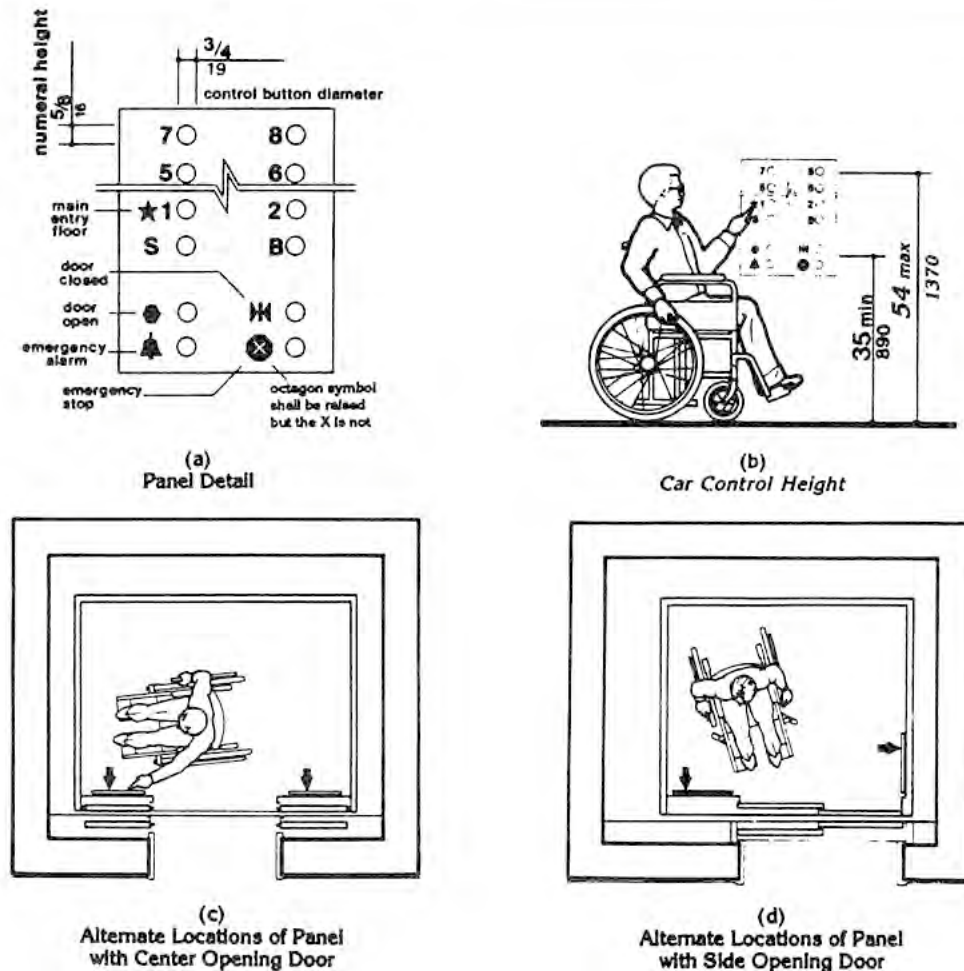


Fig. 23
Car Controls

(4) Location. Controls shall be located on a front wall if cars have center opening doors, and at the side wall or at the front wall next to the door if cars have side opening doors (see Fig. 23(c) and (d)).

4.10.13* Car Position Indicators. In elevator cars, a visual car position indicator shall be provided above the car control panel or over the door to show the position of the elevator in the hoistway. As the car passes or stops at a floor served by the elevators, the corresponding numerals shall illuminate,

and an audible signal shall sound. Numerals shall be a minimum of 1/2 in (13 mm) high. The audible signal shall be no less than 20 decibels with a frequency no higher than 1500 Hz. An automatic verbal announcement of the floor number at which a car stops or which a car passes may be substituted for the audible signal.

4.10.14* Emergency Communications. If provided, emergency two-way communication systems between the elevator and a point outside the hoistway shall comply with ASME

4.11 Platform Lifts (Wheelchair Lifts)

A17.1-1990. The highest operable part of a two-way communication system shall be a maximum of 48 in (1220 mm) from the floor of the car. It shall be identified by a raised symbol and lettering complying with 4.30 and located adjacent to the device. If the system uses a handset then the length of the cord from the panel to the handset shall be at least 29 in (735 mm). If the system is located in a closed compartment the compartment door hardware shall conform to 4.27, Controls and Operating Mechanisms. The emergency intercommunication system shall not require voice communication.

4.11 Platform Lifts (Wheelchair Lifts).

4.11.1 Location. Platform lifts (wheelchair lifts) permitted by 4.1 shall comply with the requirements of 4.11.

4.11.2* Other Requirements. If platform lifts (wheelchair lifts) are used, they shall comply with 4.2.4, 4.5, 4.27, and ASME A17.1 Safety Code for Elevators and Escalators, Section XX, 1990.

4.11.3 Entrance. If platform lifts are used then they shall facilitate unassisted entry, operation, and exit from the lift in compliance with 4.11.2.

4.12 Windows.

4.12.1* General. (Reserved).

4.12.2* Window Hardware. (Reserved).

4.13 Doors.

4.13.1 General. Doors required to be accessible by 4.1 shall comply with the requirements of 4.13.

4.13.2 Revolving Doors and Turnstiles. Revolving doors or turnstiles shall not be the only means of passage at an accessible entrance or along an accessible route. An accessible gate or door shall be provided adjacent to the turnstile or revolving door and shall be so designed as to facilitate the same use pattern.

4.13.3 Gates. Gates, including ticket gates, shall meet all applicable specifications of 4.13.

4.13.4 Double-Leaf Doorways. If doorways have two *independently operated* door leaves, then at least one leaf shall meet the specifications in 4.13.5 and 4.13.6. That leaf shall be an active leaf.

4.13.5 Clear Width. Doorways shall have a minimum clear opening of 32 in (815 mm) with the door open 90 degrees, measured between the face of the door and the *opposite* stop (see Fig. 24(a), (b), (c), and (d)). Openings more than 24 in (610 mm) in depth shall comply with 4.2.1 and 4.3.3 (see Fig. 24(e)).

EXCEPTION: Doors not requiring full user passage, such as shallow closets, may have the clear opening reduced to 20 in (510 mm) minimum.

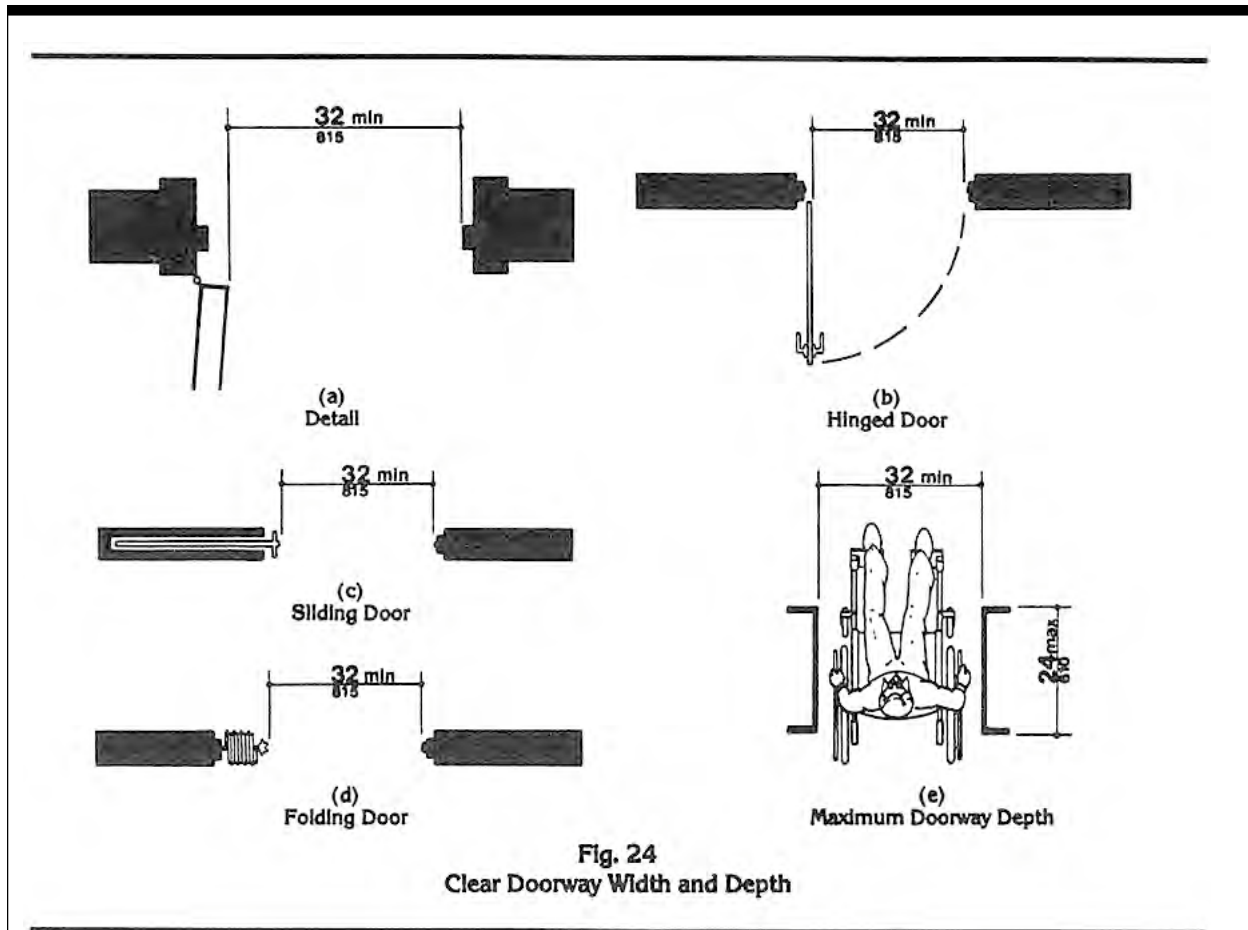
4.13.6 Maneuvering Clearances at Doors. Minimum maneuvering clearances at doors that are not automatic or power-assisted shall be as shown in Fig. 25. The floor or ground area within the required clearances shall be level and clear.

EXCEPTION: Entry doors to acute care hospital bedrooms for in-patients shall be exempted from the requirement for space at the latch side of the door (see dimension "x" in Fig. 25) if the door is at least 44 in (1120 mm) wide.

4.13.7 Two Doors in Series. The minimum space between two hinged or pivoted doors in series shall be 48 in (1220 mm) plus the width of any door swinging into the space. Doors in series shall swing either in the same direction or away from the space between the doors (see Fig. 26).

4.13.8* Thresholds at Doorways. Thresholds at doorways shall not exceed 3/4 in (19 mm) in height for exterior sliding doors or 1/2 in (13 mm) for other types of doors. Raised thresholds and floor level changes at accessible doorways shall be beveled with a slope no greater than 1:2 (see 4.5.2).

4.13.9* Door Hardware. Handles, pulls, latches, locks, and other operating devices on accessible doors shall have a shape that is



easy to grasp with one hand and does not require tight grasping, tight pinching, or twisting of the wrist to operate. Lever-operated mechanisms, push-type mechanisms, and U-shaped handles are acceptable designs. When sliding doors are fully open, operating hardware shall be exposed and usable from both sides. *Hardware required for accessible door passage shall be mounted no higher than 48 in (1220 mm) above finished floor.*

4.13.10* Door Closers. If a door has a closer, then the sweep period of the closer shall be adjusted so that from an open position of 70 degrees, the door will take at least 3 seconds to move to a point 3 in (75 mm) from the latch, measured to the leading edge of the door.

4.13.11* Door Opening Force. The maximum force for pushing or pulling open a door shall be as follows:

(1) Fire doors shall have the minimum opening force allowable by the appropriate administrative authority.

(2) Other doors.

(a) exterior hinged doors: (Reserved).

(b) interior hinged doors: 5 lbf (22.2N)

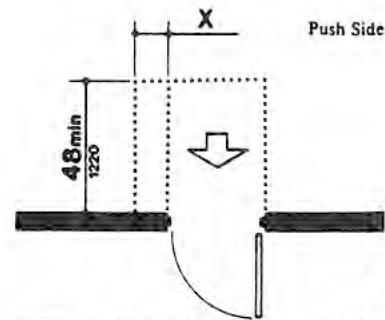
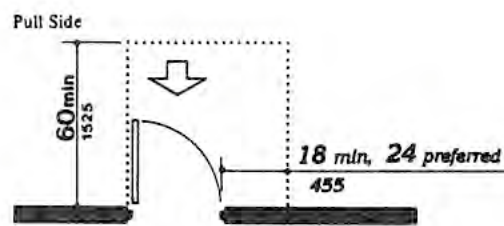
(c) sliding or folding doors: 5 lbf (22.2N)

These forces do not apply to the force required to retract latch bolts or disengage other devices that may hold the door in a closed position.

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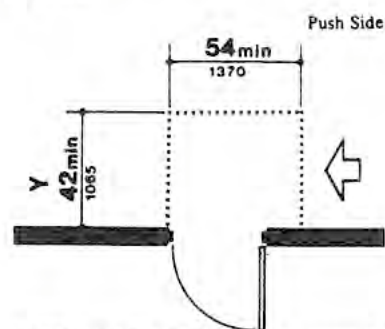
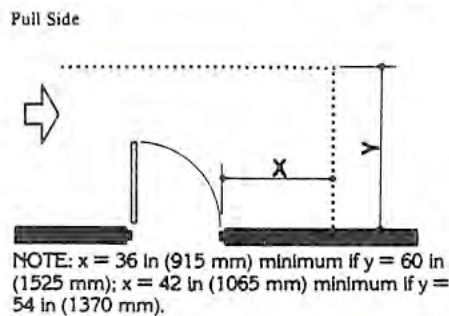
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4.13 Doors



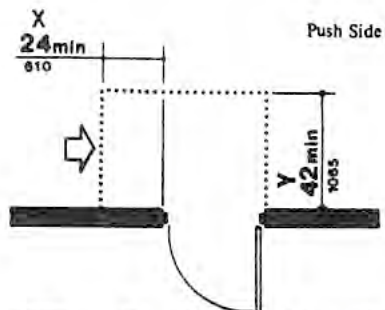
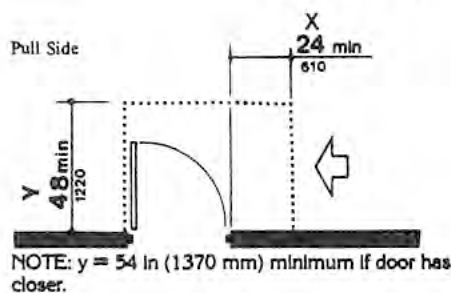
NOTE: $x = 12$ in (305 mm) if door has both a closer and latch.

(a)
Front Approaches — Swinging Doors



NOTE: $y = 48$ in (1220 mm) minimum if door has both a latch and closer.

(b)
Hinge Side Approaches — Swinging Doors



NOTE: $y = 48$ in (1220 mm) minimum if door has closer.

(c)
Latch Side Approaches — Swinging Doors

NOTE: All doors in alcoves shall comply with the clearances for front approaches.

Fig. 25
Maneuvering Clearances at Doors

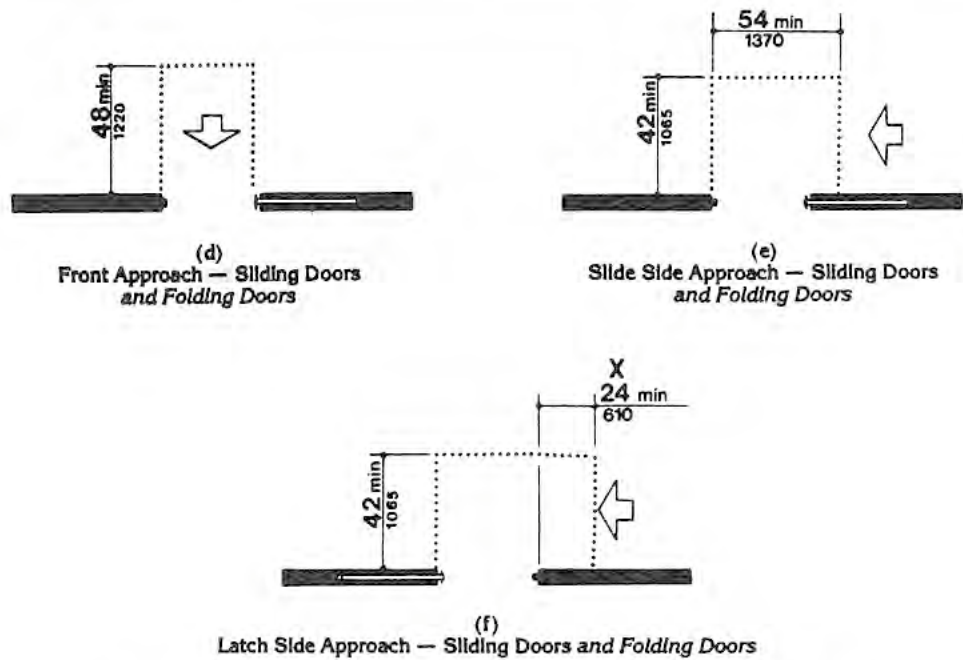


Fig. 25
Maneuvering Clearances at Doors (Continued)

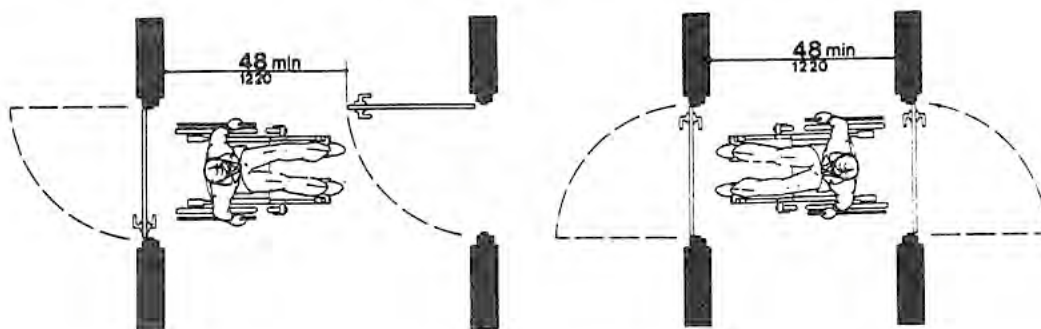


Fig. 26
Two Hinged Doors in Series

4.14 Entrances

4.13.12* Automatic Doors and Power-Assisted Doors. If an automatic door is used, then it shall comply with *ANSI/BHMA A156.10-1985*. Slowly opening, *low-powered*, automatic doors shall comply with *ANSI A156.19-1984*. Such doors shall not open to back check faster than 3 seconds and shall require no more than 15 lbf (66.6N) to stop door movement. If a power-assisted door is used, its door-opening force shall comply with 4.13.11 and its closing shall conform to the requirements in *ANSI A156.19-1984*.

4.14 Entrances.

4.14.1 Minimum Number. *Entrances required to be accessible by 4.1* shall be part of an accessible route complying with 4.3. Such entrances shall be connected by an accessible route to public transportation stops, to accessible parking and passenger loading zones, and to public streets or sidewalks if available (see 4.3.2(1)). They shall also be connected by an accessible route to all accessible spaces or elements within the building or facility.

4.14.2 Service Entrances. A service entrance shall not be the sole accessible entrance unless it is the only entrance to a building or facility (for example, in a factory or garage).

4.15 Drinking Fountains and Water Coolers.

4.15.1 Minimum Number. Drinking fountains or water coolers required to be accessible by 4.1 shall comply with 4.15.

4.15.2* Spout Height. Spouts shall be no higher than 36 in (915 mm), measured from the floor or ground surfaces to the spout outlet (see Fig. 27(a)).

4.15.3 Spout Location. The spouts of drinking fountains and water coolers shall be at the front of the unit and shall direct the water flow in a trajectory that is parallel or nearly parallel to the front of the unit. The spout shall provide a flow of water at least 4 in (100 mm) high so as to allow the insertion of a cup or glass under the flow of water. *On an accessible drinking fountain with a round or*

oval bowl, the spout must be positioned so the flow of water is within 3 in (75 mm) of the front edge of the fountain.

4.15.4 Controls. Controls shall comply with 4.27.4. *Unit controls shall be front mounted or side mounted near the front edge.*

4.15.5 Clearances.

(1) Wall- and post-mounted cantilevered units shall have a clear knee space between the bottom of the apron and the floor or ground at least 27 in (685 mm) high, 30 in (760 mm) wide, and 17 in to 19 in (430 mm to 485 mm) deep (see Fig. 27(a) and (b)). Such units shall also have a minimum clear floor space 30 in by 48 in (760 mm by 1220 mm) to allow a person in a wheelchair to approach the unit facing forward.

(2) Free-standing or built-in units not having a clear space under them shall have a clear floor space at least 30 in by 48 in (760 mm by 1220 mm) that allows a person in a wheelchair to make a parallel approach to the unit (see Fig. 27(c) and (d)). This clear floor space shall comply with 4.2.4.

4.16 Water Closets.

4.16.1 General. Accessible water closets shall comply with 4.16.

4.16.2 Clear Floor Space. Clear floor space for water closets not in stalls shall comply with Fig. 28. Clear floor space may be arranged to allow either a left-handed or right-handed approach.

4.16.3* Height. The height of water closets shall be 17 in to 19 in (430 mm to 485 mm), measured to the top of the toilet seat (see Fig. 29(b)). *Seats shall not be sprung to return to a lifted position.*

4.16.4* Grab Bars. Grab bars for water closets not located in stalls shall comply with 4.26 and Fig. 29. *The grab bar behind the water closet shall be 36 in (915 mm) minimum.*

4.16.5* Flush Controls. Flush controls shall be hand operated *or automatic* and shall comply with 4.27.4. Controls for flush valves

shall be mounted on the wide side of toilet areas no more than 44 in (1120 mm) above the floor.

4.16.6 Dispensers. Toilet paper dispensers shall be installed within reach, as shown in Fig. 29(b). *Dispensers that control delivery, or that do not permit continuous paper flow, shall not be used.*

4.17 Toilet Stalls.

4.17.1 Location. Accessible toilet stalls shall be on an accessible route and shall meet the requirements of 4.17.

4.17.2 Water Closets. Water closets in accessible stalls shall comply with 4.16.

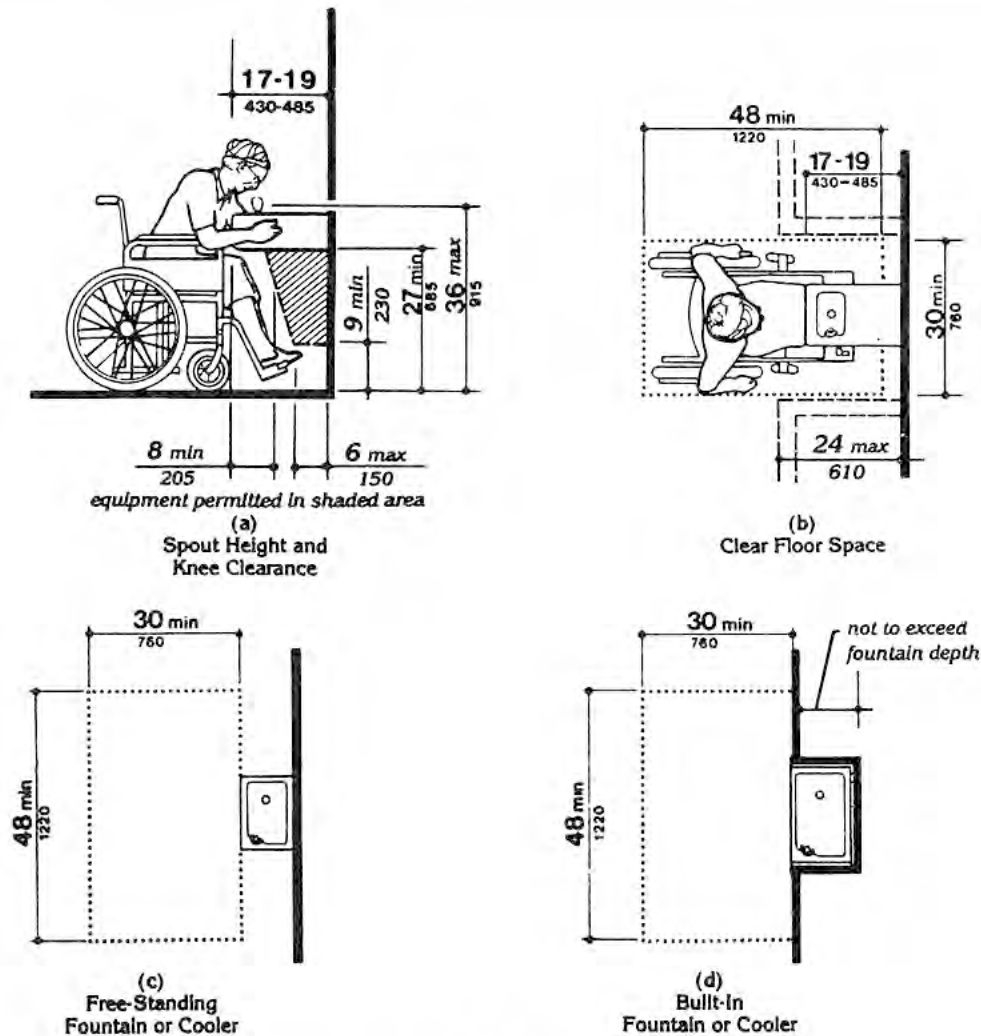


Fig. 27
Drinking Fountains and Water Coolers

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4.17 Toilet Stalls

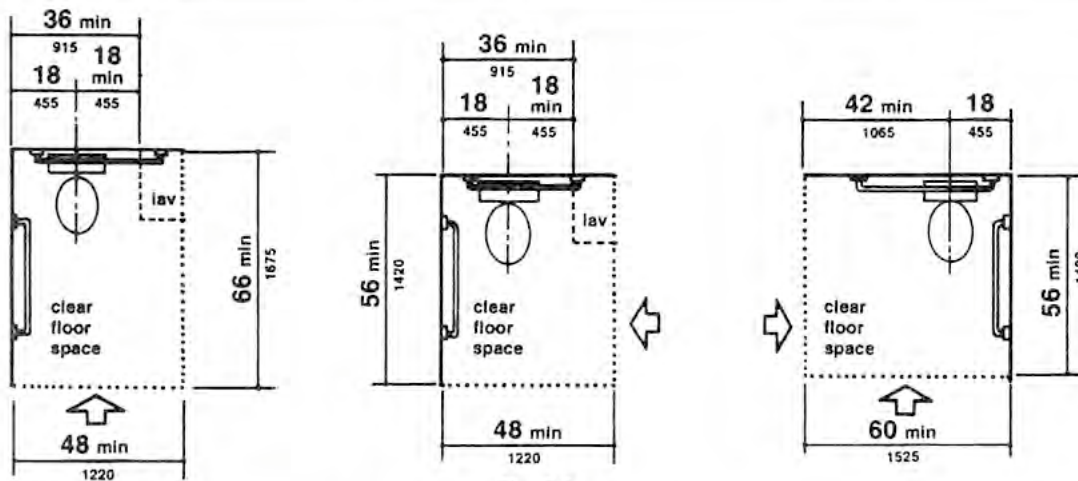


Fig. 28
Clear Floor Space at Water Closets

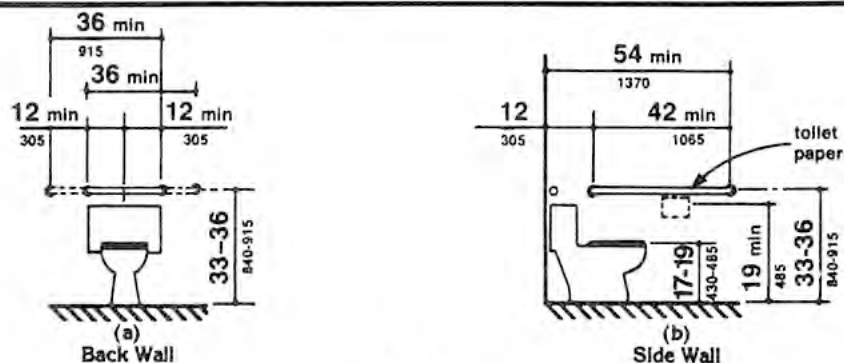


Fig. 29
Grab Bars at Water Closets

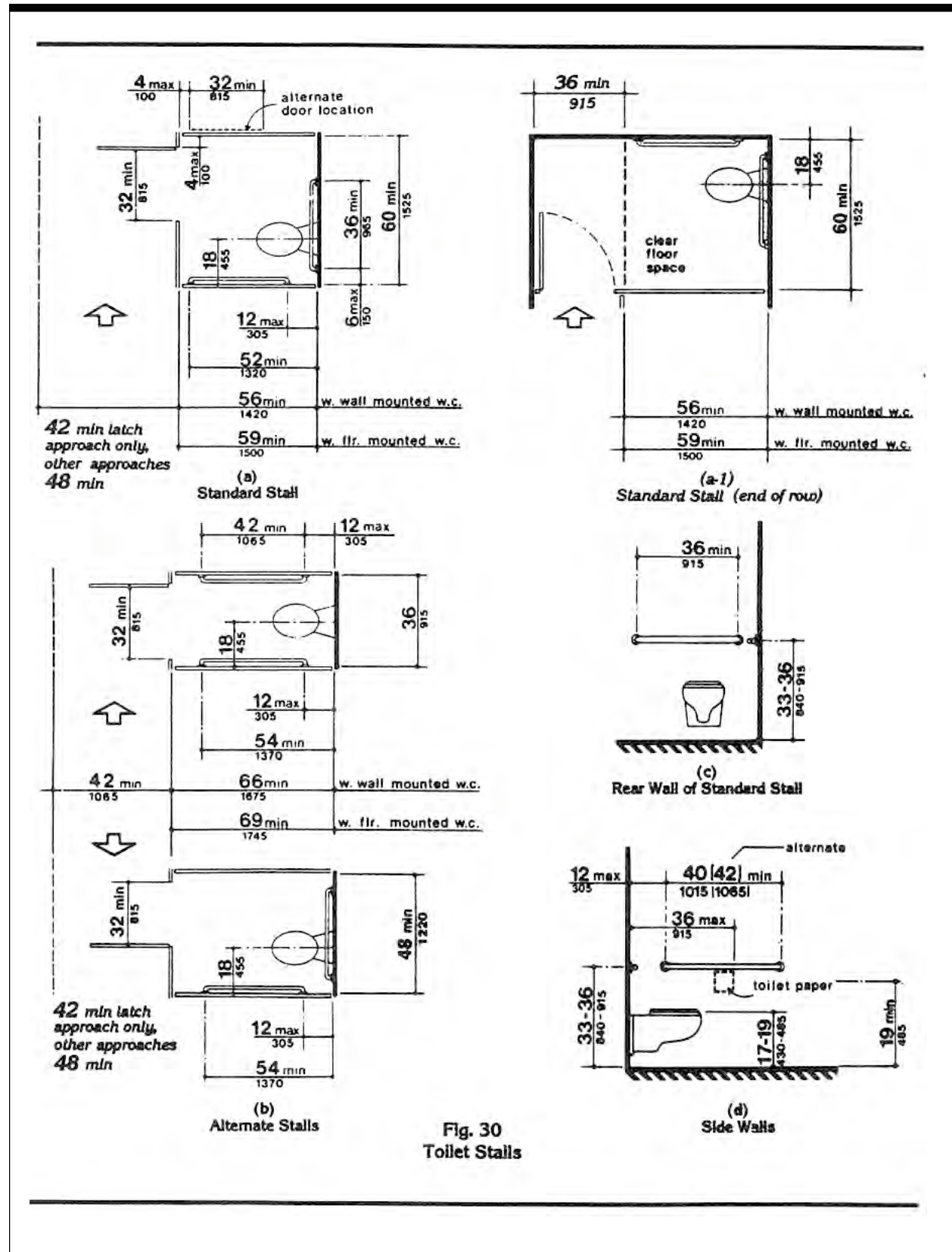
4.17.3* Size and Arrangement. The size and arrangement of the standard toilet stall shall comply with Fig. 30(a), Standard Stall. Standard toilet stalls with a minimum depth of 56 in (1420 mm) (see Fig. 30(a)) shall have wall-mounted water closets. If the depth of a standard toilet stall is increased at least 3 in (75 mm), then a floor-mounted water closet may be used. Arrangements shown for standard toilet stalls may be reversed to allow either a left- or right-hand approach. Additional stalls shall be provided in conformance with 4.22.4.

EXCEPTION: In instances of alteration work where provision of a standard stall (Fig. 30(a))

is technically infeasible or where plumbing code requirements prevent combining existing stalls to provide space, either alternate stall (Fig. 30(b)) may be provided in lieu of the standard stall.

4.17.4 Toe Clearances. In standard stalls, the front partition and at least one side partition shall provide a toe clearance of at least 9 in (230 mm) above the floor. If the depth of the stall is greater than 60 in (1525 mm), then the toe clearance is not required.

4.17.5* Doors. Toilet stall doors, including door hardware, shall comply with 4.13. If toilet stall approach is from the latch side of the stall door, clearance between the door side of the



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4.19 Lavatories and Mirrors

stall and any obstruction may be reduced to a minimum of 42 in (1065 mm) (Fig. 30).

4.17.6 Grab Bars. Grab bars complying with the length and positioning shown in Fig. 30(a), (b), (c), and (d) shall be provided. Grab bars may be mounted with any desired method as long as they have a gripping surface at the locations shown and do not obstruct the required clear floor area. Grab bars shall comply with 4.26.

4.18 Urinals.

4.18.1 General. Accessible urinals shall comply with 4.18.

4.18.2 Height. Urinals shall be stall-type or wall-hung with an elongated rim at a maximum of 17 in (430 mm) above the finish floor.

4.18.3 Clear Floor Space. A clear floor space 30 in by 48 in (760 mm by 1220 mm) shall be provided in front of urinals to allow forward approach. This clear space shall adjoin or overlap an accessible route and shall comply with 4.2.4. *Urinal shields that do not extend beyond the front edge of the urinal rim may be provided with 29 in (735 mm) clearance between them.*

4.18.4 Flush Controls. Flush controls shall be hand operated or automatic, and shall comply with 4.27.4, and shall be mounted no more than 44 in (1120 mm) above the finish floor.

4.19 Lavatories and Mirrors.

4.19.1 General. The requirements of 4.19 shall apply to lavatory fixtures, vanities, and built-in lavatories.

4.19.2 Height and Clearances. Lavatories shall be mounted with *the rim or counter surface no higher than 34 in (865 mm) above the finish floor.* Provide a clearance of at least 29 in (735 mm) above the finish floor to the bottom of the apron. Knee and toe clearance shall comply with Fig. 31.

4.19.3 Clear Floor Space. A clear floor space 30 in by 48 in (760 mm by 1220 mm) complying with 4.2.4 shall be provided in front of a lavatory to allow forward approach. Such clear floor

space shall adjoin or overlap an accessible route and shall extend a maximum of 19 in (485 mm) underneath the lavatory (see Fig. 32).

4.19.4 Exposed Pipes and Surfaces. Hot water and drain pipes under lavatories shall be insulated or otherwise *configured to protect against contact.* There shall be no sharp or abrasive surfaces under lavatories.

4.19.5 Faucets. Faucets shall comply with 4.27.4. Lever-operated, push-type, and electronically controlled mechanisms are examples of acceptable designs. *If self-closing*

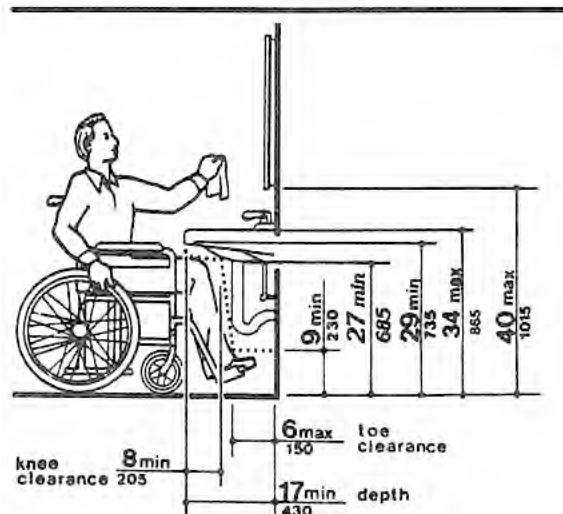


Fig. 31
Lavatory Clearances

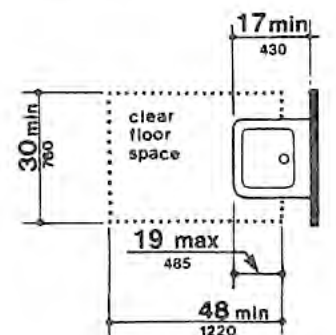


Fig. 32
Clear Floor Space at Lavatories

valves are used the faucet shall remain open for at least 10 seconds.

4.19.6* Mirrors. Mirrors shall be mounted with the bottom edge *of the reflecting surface* no higher than 40 in (1015 mm) *above the finish floor* (see Fig. 31).

4.20 Bathtubs.

4.20.1 General. Accessible bathtubs shall comply with 4.20.

4.20.2 Floor Space. Clear floor space in front of bathtubs shall be as shown in Fig. 33.

4.20.3 Seat. An in-tub seat or a seat at the head end of the tub shall be provided as shown in Fig. 33 and 34. The structural strength of seats and their attachments shall comply with 4.26.3. Seats shall be mounted securely and shall not slip during use.

4.20.4 Grab Bars. Grab bars complying with 4.26 shall be provided as shown in Fig. 33 and 34.

4.20.5 Controls. Faucets and other controls complying with 4.27.4 shall be located as shown in Fig. 34.

4.20.6 Shower Unit. A shower spray unit with a hose at least 60 in (1525 mm) long that can be used both as a fixed shower head and as a hand-held shower shall be provided.

4.20.7 Bathtub Enclosures. If provided, enclosures for bathtubs shall not obstruct controls or transfer from wheelchairs onto bathtub seats or into tubs. Enclosures on bathtubs shall not have tracks mounted on their rims.

4.21 Shower Stalls.

4.21.1* General. Accessible shower stalls shall comply with 4.21.

4.21.2 Size and Clearances. Except as specified in 9.1.2, shower stall size and clear floor space shall comply with Fig. 35(a) or (b). The shower stall in Fig. 35(a) shall be 36 in by 36 in (915 mm by 915 mm). Shower stalls required by 9.1.2 shall comply with Fig. 57(a)

or (b). The shower stall in Fig. 35(b) will fit into the space required for a bathtub.

4.21.3 Seat. A seat shall be provided in shower stalls 36 in by 36 in (915 mm by 915 mm) and shall be as shown in Fig. 36. The seat shall be mounted 17 in to 19 in (430 mm to 485 mm) from the bathroom floor and shall extend the full depth of the stall. In a 36 in by 36 in (915 mm by 915 mm) shower stall, the seat shall be on the wall opposite the controls. *Where a fixed seat is provided in a 30 in by 60 in minimum (760 mm by 1525 mm) shower stall, it shall be a folding type and shall be mounted on the wall adjacent to the controls as shown in Fig. 57.* The structural strength of seats and their attachments shall comply with 4.26.3.

4.21.4 Grab Bars. Grab bars complying with 4.26 shall be provided as shown in Fig. 37.

4.21.5 Controls. Faucets and other controls complying with 4.27.4 shall be located as shown in Fig. 37. In shower stalls 36 in by 36 in (915 mm by 915 mm), all controls, faucets, and the shower unit shall be mounted on the side wall opposite the seat.

4.21.6 Shower Unit. A shower spray unit with a hose at least 60 in (1525 mm) long that can be used both as a fixed shower head and as a hand-held shower shall be provided.

EXCEPTION: In unmonitored facilities where vandalism is a consideration, a fixed shower head mounted at 48 in (1220 mm) above the shower floor may be used in lieu of a hand-held shower head.

4.21.7 Curbs. If provided, curbs in shower stalls 36 in by 36 in (915 mm by 915 mm) shall be no higher than 1/2 in (13 mm). Shower stalls that are 30 in by 60 in (760 mm by 1525 mm) minimum shall not have curbs.

4.21.8 Shower Enclosures. If provided, enclosures for shower stalls shall not obstruct controls or obstruct transfer from wheelchairs onto shower seats.

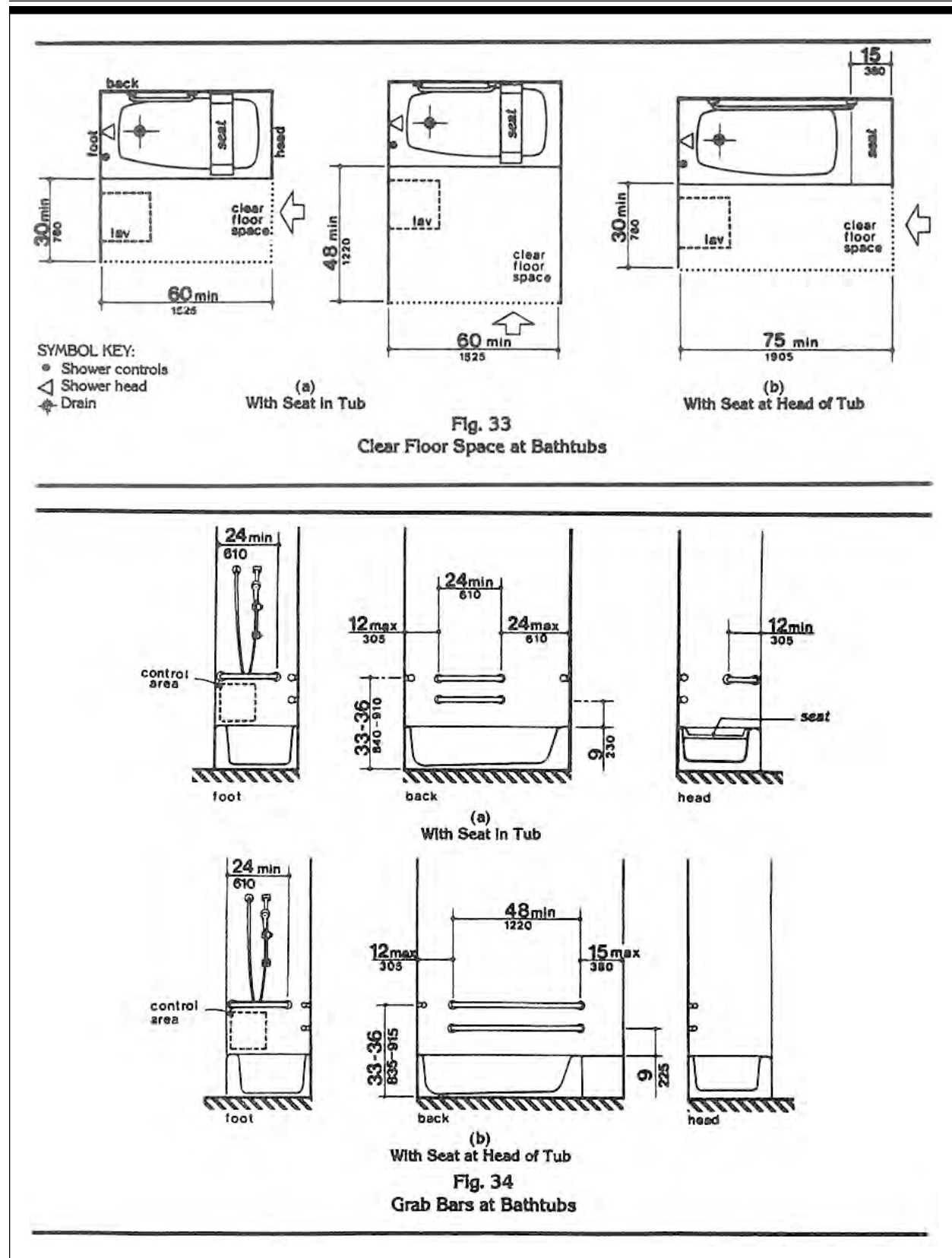
4.22 Toilet Rooms.

4.22.1 Minimum Number. *Toilet facilities required to be accessible by 4.1 shall comply*

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4.21 Shower Stalls



with 4.22. Accessible toilet rooms shall be on an accessible route.

4.22.2 Doors. All doors to accessible toilet rooms shall comply with 4.13. Doors shall not swing into the clear floor space required for any fixture.

4.22.3* Clear Floor Space. The accessible fixtures and controls required in 4.22.4, 4.22.5, 4.22.6, and 4.22.7 shall be on an accessible route. An unobstructed turning space complying with 4.2.3 shall be provided within an accessible toilet room. The clear floor space at fixtures and controls, the accessible route, and the turning space may overlap.

4.22.4 Water Closets. If toilet stalls are provided, then at least one shall be a standard

toilet stall complying with 4.17; where 6 or more stalls are provided, in addition to the stall complying with 4.17.3, at least one stall 36 in (915 mm) wide with an outward swinging, self-closing door and parallel grab bars complying with Fig. 30(d) and 4.26 shall be provided. Water closets in such stalls shall comply with 4.16. If water closets are not in stalls, then at least one shall comply with 4.16.

4.22.5 Urinals. If urinals are provided, then at least one shall comply with 4.18.

4.22.6 Lavatories and Mirrors. If lavatories and mirrors are provided, then at least one of each shall comply with 4.19.

4.22.7 Controls and Dispensers. If controls, dispensers, receptacles, or other

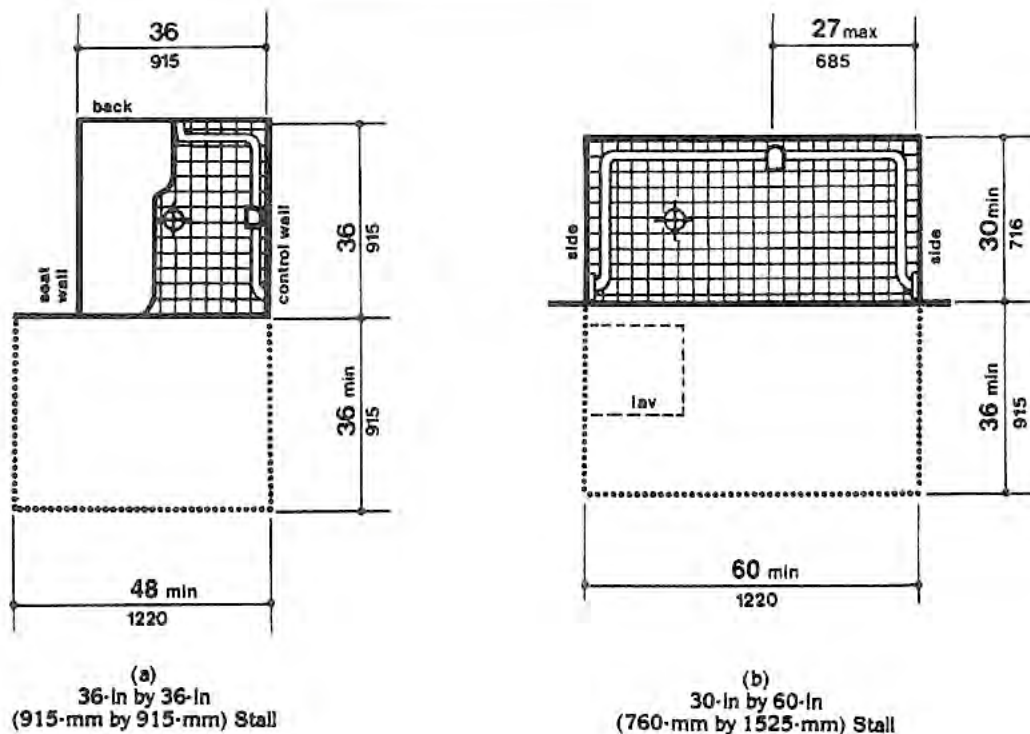


Fig. 35
Shower Size and Clearances

4.23 Bathrooms, Bathing Facilities, and Shower Rooms

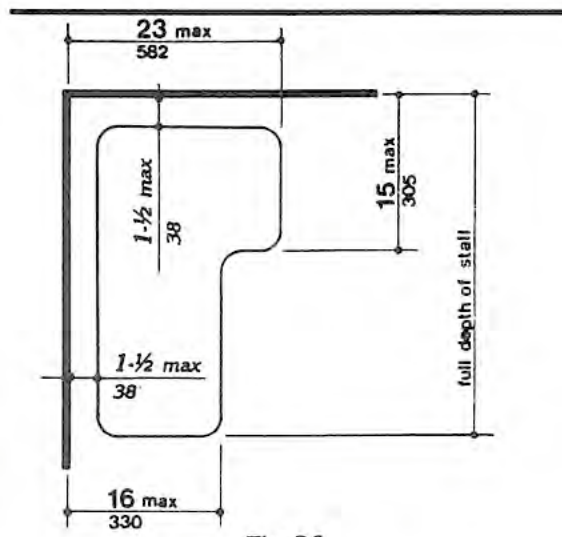


Fig. 36
Shower Seat Design

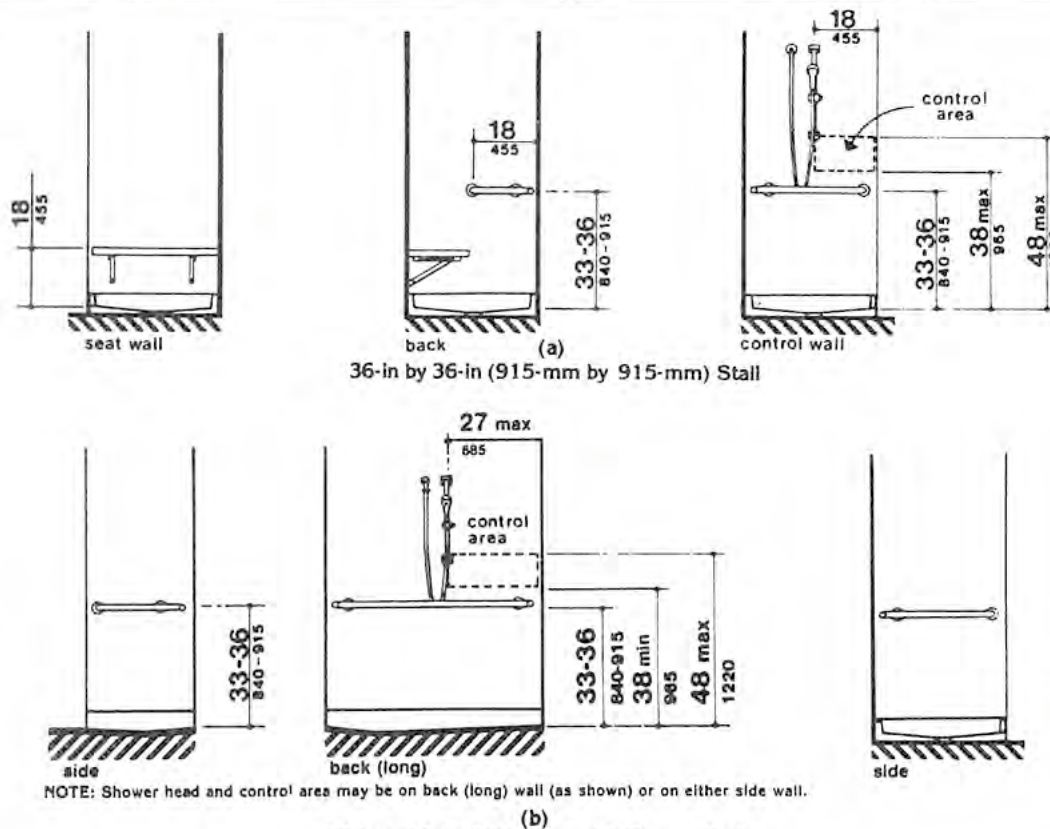
equipment are provided, *then* at least one of each shall be on an accessible route and shall comply with 4.27.

4.23 Bathrooms, Bathing Facilities, and Shower Rooms.

4.23.1 Minimum Number. Bathrooms, bathing facilities, or shower rooms *required to be accessible by 4.1* shall comply with 4.23 and shall be on an accessible route.

4.23.2 Doors. Doors to accessible bathrooms shall comply with 4.13. Doors shall not swing into the floor space required for any fixture.

4.23.3* Clear Floor Space. The accessible fixtures and controls required in 4.23.4, 4.23.5, 4.23.6, 4.23.7, 4.23.8, and 4.23.9 shall be on an accessible route. An unobstructed turning



(b)
30-in by 60-in (760-mm by 1525-mm) Stall

Fig. 37
Grab Bars at Shower Stalls

space complying with 4.2.3 shall be provided within an accessible bathroom. The clear floor spaces at fixtures and controls, the accessible route, and the turning space may overlap.

4.23.4 Water Closets. If toilet stalls are provided, then at least one shall be a standard toilet stall complying with 4.17; *where 6 or more stalls are provided, in addition to the stall complying with 4.17.3, at least one stall 36 in (915 mm) wide with an outward swinging, self-closing door and parallel grab bars complying with Fig. 30(d) and 4.26 shall be provided.* Water closets in such stalls shall comply with 4.16. If water closets are not in stalls, then at least one shall comply with 4.16.

4.23.5 Urinals. If urinals are provided, then at least one shall comply with 4.18.

4.23.6 Lavatories and Mirrors. If lavatories and mirrors are provided, then at least one of each shall comply with 4.19.

4.23.7 Controls and Dispensers. If controls, dispensers, receptacles, or other equipment are provided, *then* at least one of each shall be on an accessible route and shall comply with 4.27.

4.23.8 Bathing and Shower Facilities. If tubs or showers are provided, then at least one accessible tub that complies with 4.20 or at least one accessible shower that complies with 4.21 shall be provided.

4.23.9* Medicine Cabinets. If medicine cabinets are provided, at least one shall be located with a usable shelf no higher than 44 in (1120 mm) above the floor space. The floor space shall comply with 4.2.4.

4.24 Sinks.

4.24.1 General. Sinks *required to be accessible by 4.1* shall comply with 4.24.

4.24.2 Height. Sinks shall be mounted with the counter or rim no higher than 34 in (865 mm) *above the finish floor.*

4.24.3 Knee Clearance. Knee clearance that is at least 27 in (685 mm) high, 30 in (760 mm) wide, and 19 in (485 mm) deep shall be pro-

vided underneath sinks.

4.24.4 Depth. Each sink shall be a maximum of 6-1/2 in (165 mm) deep.

4.24.5 Clear Floor Space. A clear floor space at least 30 in by 48 in (760 mm by 1220 mm) complying with 4.2.4 shall be provided in front of a sink to allow forward approach. The clear floor space shall be on an accessible route and shall extend a maximum of 19 in (485 mm) underneath the sink (see Fig. 32).

4.24.6 Exposed Pipes and Surfaces. Hot water and drain pipes exposed under sinks shall be insulated or otherwise *configured so as to protect against contact.* There shall be no sharp or abrasive surfaces under sinks.

4.24.7 Faucets. Faucets shall comply with 4.27.4. Lever-operated, push-type, touch-type, or electronically controlled mechanisms are acceptable designs.

4.25 Storage.

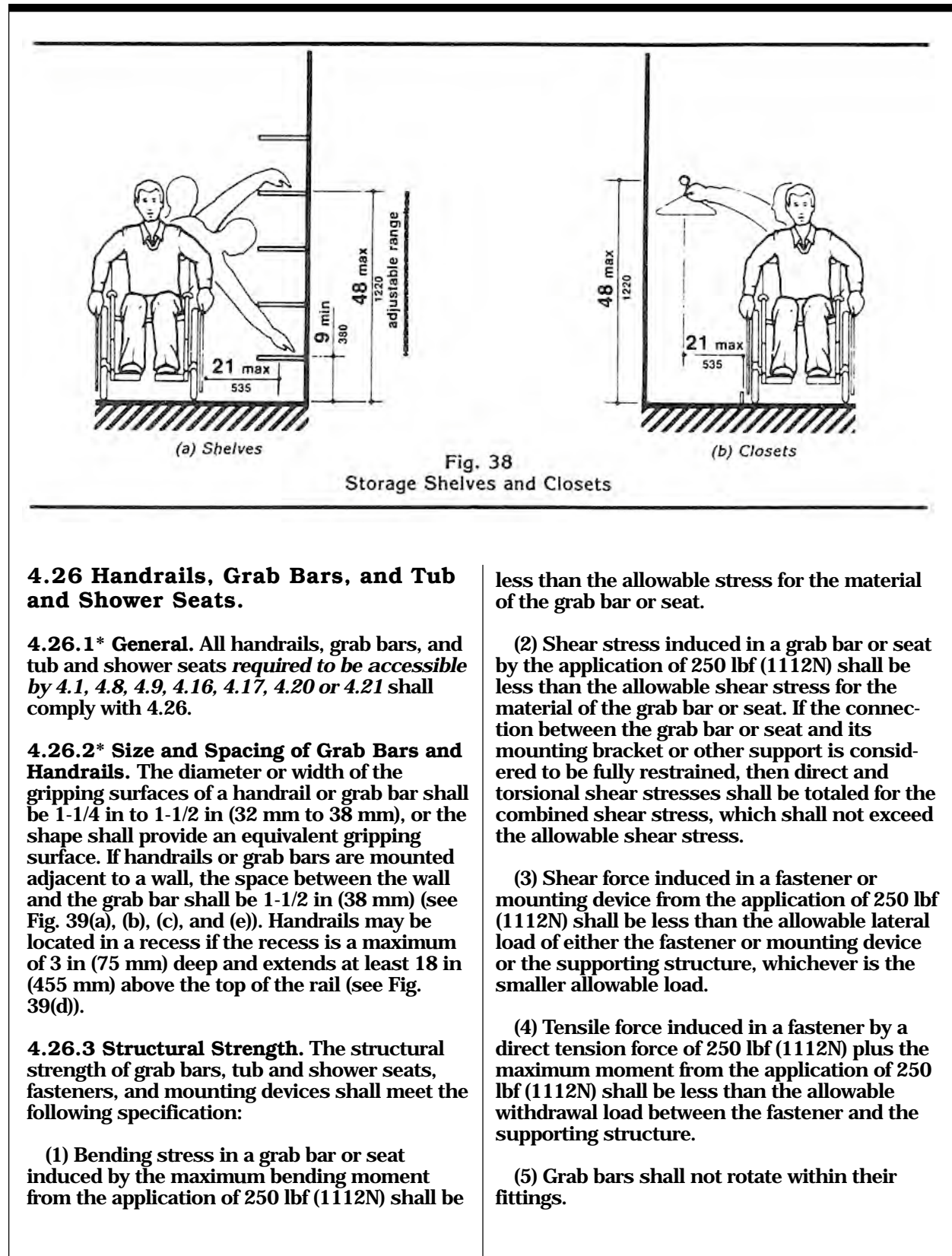
4.25.1 General. *Fixed* storage facilities such as cabinets, shelves, closets, and drawers *required to be accessible by 4.1* shall comply with 4.25.

4.25.2 Clear Floor Space. A clear floor space at least 30 in by 48 in (760 mm by 1220 mm) complying with 4.2.4 that allows either a forward or parallel approach by a person using a wheelchair shall be provided at accessible storage facilities.

4.25.3 Height. Accessible storage spaces shall be within at least one of the reach ranges specified in 4.2.5 and 4.2.6 (*see Fig. 5 and Fig. 6*). Clothes rods or shelves shall be a maximum of 54 in (1370 mm) *above the finish floor for a side approach. Where the distance from the wheelchair to the clothes rod or shelf exceeds 10 in (255 mm) (as in closets without accessible doors) the height and depth to the rod or shelf shall comply with Fig. 38(a) and Fig. 38(b).*

4.25.4 Hardware. Hardware for accessible storage facilities shall comply with 4.27.4. Touch latches and U-shaped pulls are acceptable.

4.26 Handrails, Grab Bars, and Tub and Shower Seats

**4.26 Handrails, Grab Bars, and Tub and Shower Seats.**

4.26.1* General. All handrails, grab bars, and tub and shower seats *required to be accessible* by 4.1, 4.8, 4.9, 4.16, 4.17, 4.20 or 4.21 shall comply with 4.26.

4.26.2* Size and Spacing of Grab Bars and Handrails. The diameter or width of the gripping surfaces of a handrail or grab bar shall be 1-1/4 in to 1-1/2 in (32 mm to 38 mm), or the shape shall provide an equivalent gripping surface. If handrails or grab bars are mounted adjacent to a wall, the space between the wall and the grab bar shall be 1-1/2 in (38 mm) (see Fig. 39(a), (b), (c), and (e)). Handrails may be located in a recess if the recess is a maximum of 3 in (75 mm) deep and extends at least 18 in (455 mm) above the top of the rail (see Fig. 39(d)).

4.26.3 Structural Strength. The structural strength of grab bars, tub and shower seats, fasteners, and mounting devices shall meet the following specification:

(1) Bending stress in a grab bar or seat induced by the maximum bending moment from the application of 250 lbf (1112N) shall be

less than the allowable stress for the material of the grab bar or seat.

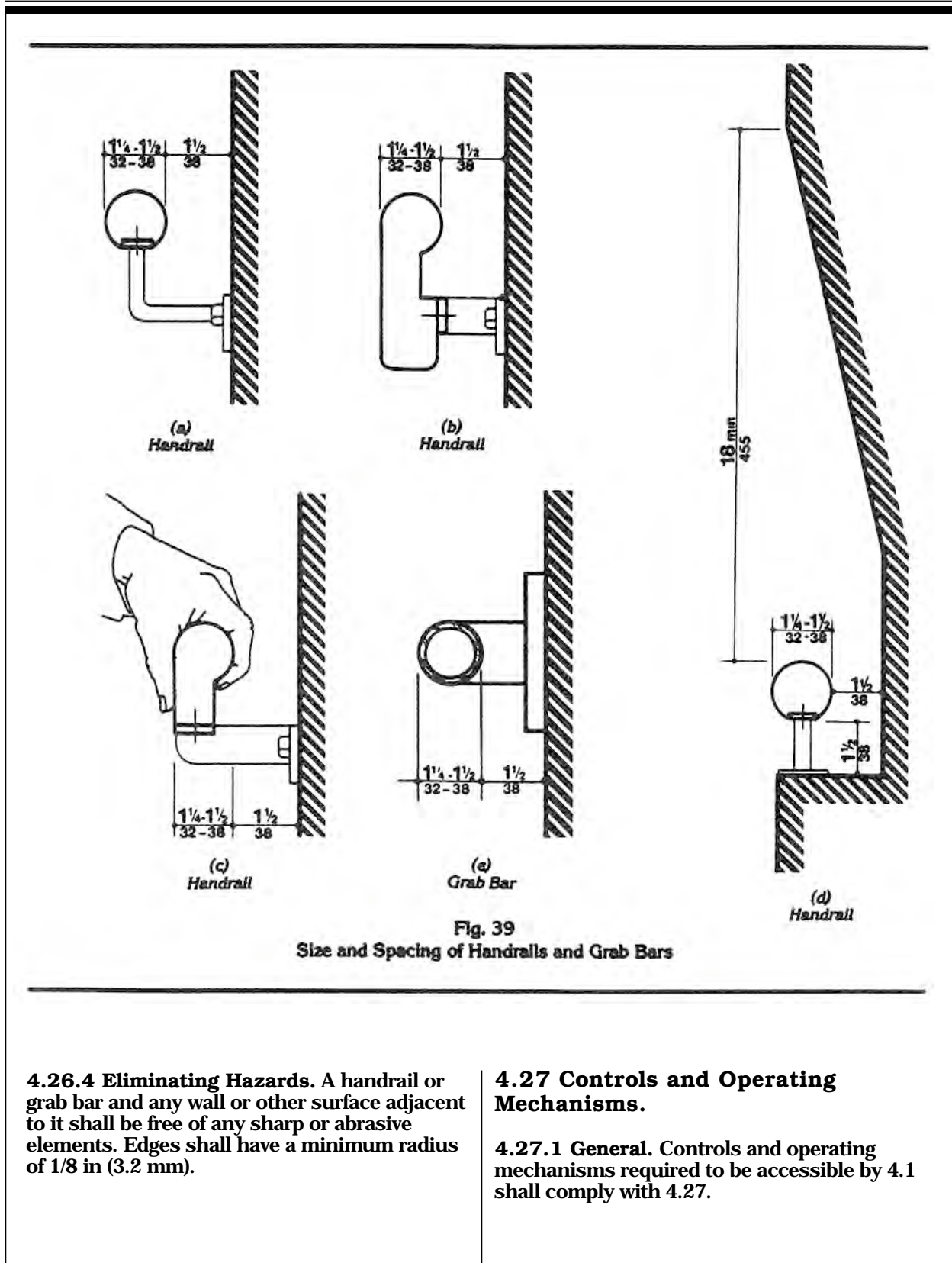
(2) Shear stress induced in a grab bar or seat by the application of 250 lbf (1112N) shall be less than the allowable shear stress for the material of the grab bar or seat. If the connection between the grab bar or seat and its mounting bracket or other support is considered to be fully restrained, then direct and torsional shear stresses shall be totaled for the combined shear stress, which shall not exceed the allowable shear stress.

(3) Shear force induced in a fastener or mounting device from the application of 250 lbf (1112N) shall be less than the allowable lateral load of either the fastener or mounting device or the supporting structure, whichever is the smaller allowable load.

(4) Tensile force induced in a fastener by a direct tension force of 250 lbf (1112N) plus the maximum moment from the application of 250 lbf (1112N) shall be less than the allowable withdrawal load between the fastener and the supporting structure.

(5) Grab bars shall not rotate within their fittings.

4.26 Handrails, Grab Bars, and Tub and Shower Seats



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4.28 Alarms

4.27.2 Clear Floor Space. Clear floor space complying with 4.2.4 that allows a forward or a parallel approach by a person using a wheelchair shall be provided at controls, dispensers, receptacles, and other operable equipment.

4.27.3* Height. The highest operable part of controls, dispensers, receptacles, and other operable equipment shall be placed within at least one of the reach ranges specified in 4.2.5 and 4.2.6. Electrical and communications system receptacles on walls shall be mounted no less than 15 in (380 mm) above the floor.

EXCEPTION: These requirements do not apply where the use of special equipment dictates otherwise or where electrical and communications systems receptacles are not normally intended for use by building occupants.

4.27.4 Operation. Controls and operating mechanisms shall be operable with one hand and shall not require tight grasping, pinching, or twisting of the wrist. The force required to activate controls shall be no greater than 5 lbf (22.2 N).

4.28 Alarms.

4.28.1 General. Alarm systems required to be accessible by 4.1 shall comply with 4.28. At a minimum, visual signal appliances shall be provided in buildings and facilities in each of the following areas: restrooms and any other general usage areas (e.g., meeting rooms), hallways, lobbies, and any other area for common use.

4.28.2* Audible Alarms. If provided, audible emergency alarms shall produce a sound that exceeds the prevailing equivalent sound level in the room or space by at least 15 dbA or exceeds any maximum sound level with a duration of 60 seconds by 5 dbA, whichever is louder. Sound levels for alarm signals shall not exceed 120 dbA.

4.28.3* Visual Alarms. Visual alarm signal appliances shall be integrated into the building or facility alarm system. If single station audible alarms are provided then single station visual alarm signals shall be provided. Visual alarm signals shall have the following minimum photometric and location features:

(1) The lamp shall be a xenon strobe type or equivalent.

(2) The color shall be clear or nominal white (i.e., unfiltered or clear filtered white light).

(3) The maximum pulse duration shall be two-tenths of one second (0.2 sec) with a maximum duty cycle of 40 percent. The pulse duration is defined as the time interval between initial and final points of 10 percent of maximum signal.

(4) The intensity shall be a minimum of 75 candela.

(5) The flash rate shall be a minimum of 1 Hz and a maximum of 3 Hz.

(6) The appliance shall be placed 80 in (2030 mm) above the highest floor level within the space or 6 in (152 mm) below the ceiling whichever is lower.

(7) In general, no place in any room or space required to have a visual signal appliance shall be more than 50 ft (15 m) from the signal (in the horizontal plane). In large rooms and spaces exceeding 100 ft (30 m) across, without obstructions 6 ft (2 m) above the finish floor, such as auditoriums, devices may be placed around the perimeter, spaced a maximum 100 ft (30 m) apart, in lieu of suspending appliances from the ceiling.

(8) No place in common corridors or hallways in which visual alarm signalling appliances are required shall be more than 50 ft (15 m) from the signal.

4.28.4* Auxiliary Alarms. Units and sleeping accommodations shall have a visual alarm connected to the building emergency alarm system or shall have a standard 110-volt electrical receptacle into which such an alarm can be connected and a means by which a signal from the building emergency alarm system can trigger such an auxiliary alarm. When visual alarms are in place the signal shall be visible in all areas of the unit or room. Instructions for use of the auxiliary alarm or receptacle shall be provided.

4.29 Detectable Warnings

4.29 Detectable Warnings.

4.29.1 General. Detectable warnings required by 4.1 and 4.7 shall comply with 4.29.

4.29.2* Detectable Warnings on Walking Surfaces. Detectable warnings shall consist of raised truncated domes with a diameter of nominal 0.9 in (23 mm), a height of nominal 0.2 in (5 mm) and a center-to-center spacing of nominal 2.35 in (60 mm) and shall contrast visually with adjoining surfaces, either light-on-dark, or dark-on-light.

The material used to provide contrast shall be an integral part of the walking surface. Detectable warnings used on interior surfaces shall differ from adjoining walking surfaces in resiliency or sound-on-cane contact.

4.29.3 Detectable Warnings on Doors To Hazardous Areas. (Reserved).

4.29.4 Detectable Warnings at Stairs. (Reserved).

4.29.5 Detectable Warnings at Hazardous Vehicular Areas. If a walk crosses or adjoins a vehicular way, and the walking surfaces are not separated by curbs, railings, or other elements between the pedestrian areas and vehicular areas, the boundary between the areas shall be defined by a continuous detectable warning which is 36 in (915 mm) wide, complying with 4.29.2.

4.29.6 Detectable Warnings at Reflecting Pools. The edges of reflecting pools shall be protected by railings, walls, curbs, or detectable warnings complying with 4.29.2.

4.29.7 Standardization. (Reserved).

4.30 Signage.

4.30.1* General. Signage required to be accessible by 4.1 shall comply with the applicable provisions of 4.30.

4.30.2* Character Proportion. Letters and numbers on signs shall have a width-to-height ratio between 3:5 and 1:1 and a stroke-width-to-height ratio between 1:5 and 1:10.

4.30.3 Character Height. Characters and numbers on signs shall be sized according to the viewing distance from which they are to be read. The minimum height is measured using an upper case X. Lower case characters are permitted.

Height Above Finished Floor	Minimum Character Height
Suspended or Projected Overhead in compliance with 4.4.2	3 in (75 mm) minimum

4.30.4* Raised and Brailled Characters and Pictorial Symbol Signs (Pictograms). Letters and numerals shall be raised 1/32 in, upper case, sans serif or simple serif type and shall be accompanied with Grade 2 Braille. Raised characters shall be at least 5/8 in (16 mm) high, but no higher than 2 in (50 mm). Pictograms shall be accompanied by the equivalent verbal description placed directly below the pictogram. The border dimension of the pictogram shall be 6 in (152 mm) minimum in height.

4.30.5* Finish and Contrast. The characters and background of signs shall be egg-shell, matte, or other non-glare finish. Characters and symbols shall contrast with their background --either light characters on a dark background or dark characters on a light background.

4.30.6 Mounting Location and Height. Where permanent identification is provided for rooms and spaces, signs shall be installed on the wall adjacent to the latch side of the door. Where there is no wall space to the latch side of the door, including at double leaf doors, signs shall be placed on the nearest adjacent wall. Mounting height shall be 60 in (1525 mm) above the finish floor to the centerline of the sign. Mounting location for such signage shall be so that a person may approach within 3 in (76 mm) of signage without encountering protruding objects or standing within the swing of a door.

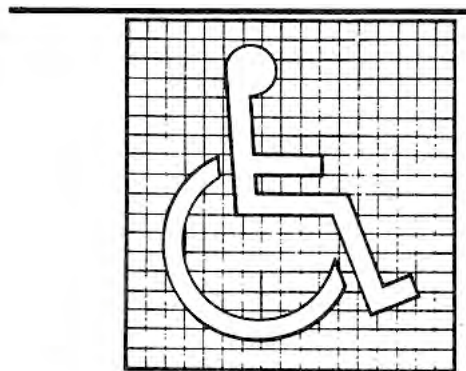
4.30.7* Symbols of Accessibility.

(1) Facilities and elements required to be identified as accessible by 4.1 shall use the international symbol of accessibility. The

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4.30 Signage



(a)
Proportions
International Symbol of Accessibility



(b)
Display Conditions
International Symbol of Accessibility



(c)
International TDD Symbol



(d)
International Symbol of Access for Hearing Loss

Fig. 43
International Symbols

symbol shall be displayed as shown in Fig. 43(a) and (b).

(2) *Volume Control Telephones.* Telephones required to have a volume control by 4.1.3(17)(b) shall be identified by a sign containing a depiction of a telephone handset with radiating sound waves.

(3) *Text Telephones.* Text telephones required by 4.1.3(17)(c) shall be identified by the international TDD symbol (Fig 43(c)). In addition, if a facility has a public text telephone, directional signage indicating the location of the nearest text telephone shall be placed adjacent to all banks of telephones which do not contain a text telephone. Such directional signage shall include the international TDD symbol. If a facility has no banks of telephones, the directional signage shall be provided at the entrance (e.g., in a building directory).

(4) *Assistive Listening Systems.* In assembly areas where permanently installed assistive listening systems are required by 4.1.3(19)(b) the availability of such systems shall be identified with signage that includes the international symbol of access for hearing loss (Fig 43(d)).

4.30.8* Illumination Levels. (Reserved).

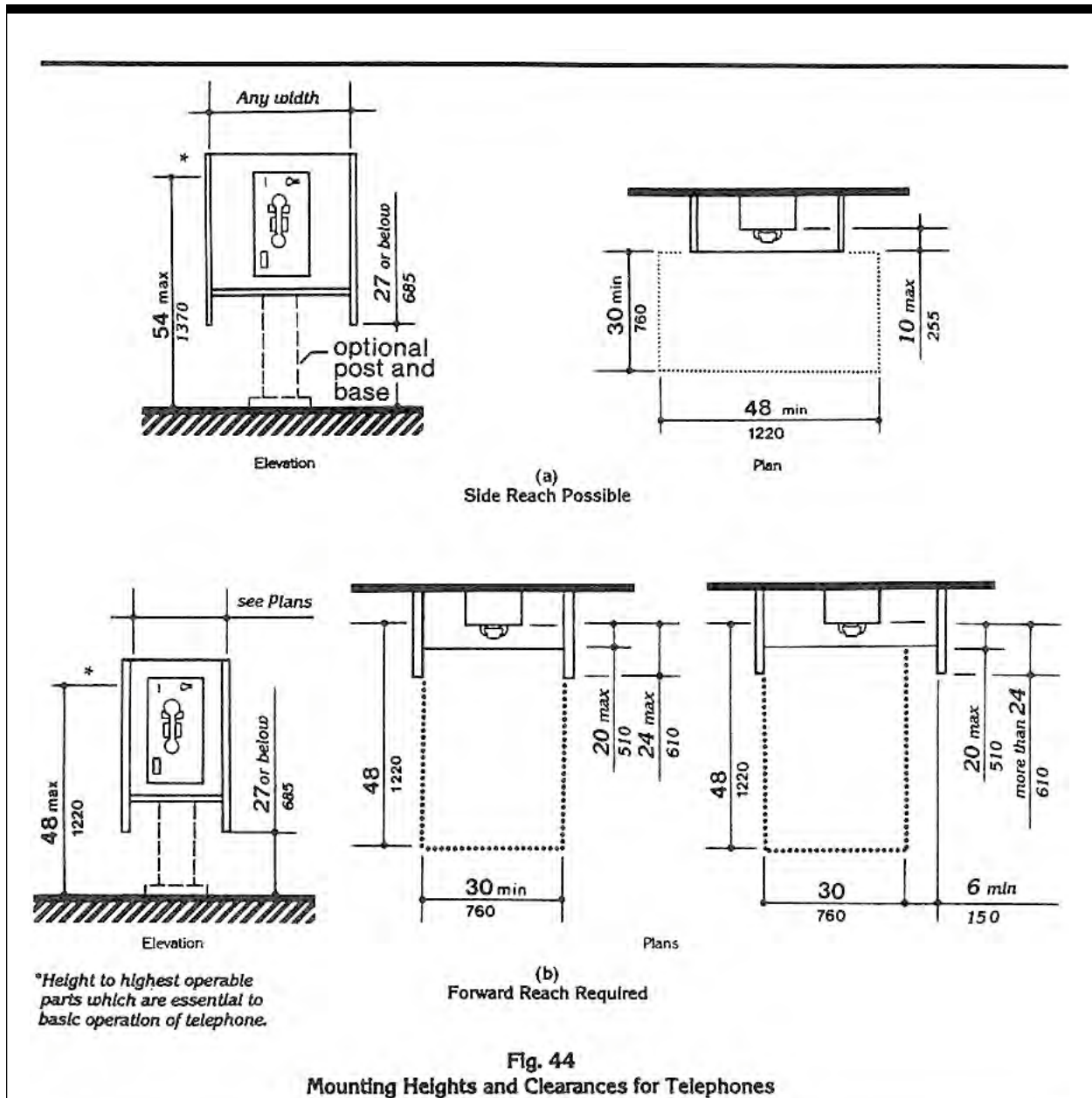
4.31 Telephones.

4.31.1 General. Public telephones required to be accessible by 4.1 shall comply with 4.31.

4.31.2 Clear Floor or Ground Space. A clear floor or ground space at least 30 in by 48 in (760 mm by 1220 mm) that allows either a forward or parallel approach by a person using a wheelchair shall be provided at telephones (see Fig. 44). The clear floor or ground space shall comply with 4.2.4. Bases, enclosures, and fixed seats shall not impede approaches to telephones by people who use wheelchairs.

4.31.3* Mounting Height. The highest operable part of the telephone shall be within the reach ranges specified in 4.2.5 or 4.2.6.

4.31.4 Protruding Objects. Telephones shall comply with 4.4.



4.31.5 Hearing Aid Compatible and Volume Control Telephones Required by 4.1.

(1) Telephones shall be hearing aid compatible.

(2) Volume controls, *capable of a minimum of 12 dbA and a maximum of 18 dbA above*

normal, shall be provided in accordance with 4.1.3. If an automatic reset is provided then 18 dbA may be exceeded.

4.31.6 Controls. Telephones shall have pushbutton controls where service for such equipment is available.

4.32 Fixed or Built-in Seating and Tables

4.31.7 Telephone Books. Telephone books, if provided, shall be located *in a position that complies with the reach ranges specified in 4.2.5 and 4.2.6.*

4.31.8 Cord Length. The cord from the telephone to the handset shall be at least 29 in (735 mm) long.

4.31.9* Text Telephones Required by 4.1.

(1) Text telephones used with a pay telephone shall be permanently affixed within, or adjacent to, the telephone enclosure. If an acoustic coupler is used, the telephone cord shall be sufficiently long to allow connection of the text telephone and the telephone receiver.

(2) Pay telephones designed to accommodate a portable text telephone shall be equipped with a shelf and an electrical outlet within or adjacent to the telephone enclosure. The telephone handset shall be capable of being placed flush on the surface of the shelf. The shelf shall be capable of accommodating a text telephone and shall have 6 in (152 mm) minimum vertical clearance in the area where the text telephone is to be placed.

(3) Equivalent facilitation may be provided. For example, a portable text telephone may be made available in a hotel at the registration desk if it is available on a 24-hour basis for use with nearby public pay telephones. In this instance, at least one pay telephone shall comply with paragraph 2 of this section. In addition, if an acoustic coupler is used, the telephone handset cord shall be sufficiently long so as to allow connection of the text telephone and the telephone receiver. Directional signage shall be provided and shall comply with 4.30.7.

4.32 Fixed or Built-in Seating and Tables.

4.32.1 Minimum Number. Fixed or built-in seating or tables required to be accessible by 4.1 shall comply with 4.32.

4.32.2 Seating. If seating spaces for people in wheelchairs are provided at fixed tables or counters, clear floor space complying with 4.2.4 shall be provided. Such clear floor space shall

not overlap knee space by more than 19 in (485 mm) (see Fig. 45).

4.32.3 Knee Clearances. If seating for people in wheelchairs is provided at tables or counters, knee spaces at least 27 in (685 mm) high, 30 in (760 mm) wide, and 19 in (485 mm) deep shall be provided (see Fig. 45).

4.32.4* Height of Tables or Counters. The tops of accessible tables and counters shall be from 28 in to 34 in (710 mm to 865 mm) above the finish floor or ground.

4.33 Assembly Areas.

4.33.1 Minimum Number. Assembly and associated areas required to be accessible by 4.1 shall comply with 4.33.

4.33.2* Size of Wheelchair Locations. Each wheelchair location shall provide minimum clear ground or floor spaces as shown in Fig. 46.

4.33.3* Placement of Wheelchair Locations. Wheelchair areas shall be an integral part of any fixed seating plan and shall be *provided so as to provide people with physical disabilities a choice of admission prices and lines of sight comparable to those for members of the general public.* They shall adjoin an accessible route that also serves as a means of egress in case of emergency. *At least one companion fixed seat shall be provided next to each wheelchair seating area. When the seating capacity exceeds 300, wheelchair spaces shall be provided in more than one location. Readily removable seats may be installed in wheelchair spaces when the spaces are not required to accommodate wheelchair users.*

EXCEPTION: Accessible viewing positions may be clustered for bleachers, balconies, and other areas having sight lines that require slopes of greater than 5 percent. Equivalent accessible viewing positions may be located on levels having accessible egress.

4.33.4 Surfaces. The ground or floor at wheelchair locations shall be level and shall comply with 4.5.

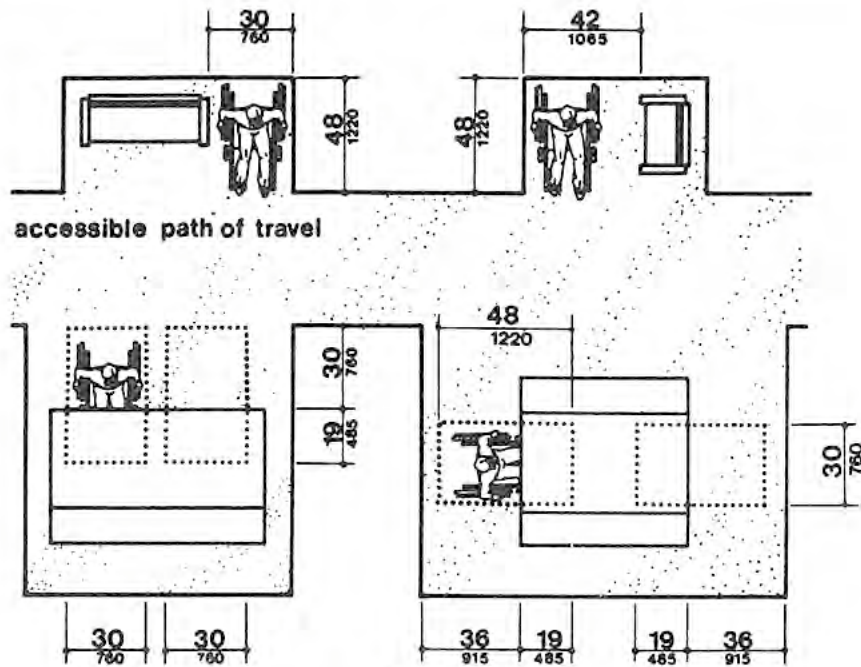


Fig. 45
Minimum Clearances for Seating and Tables

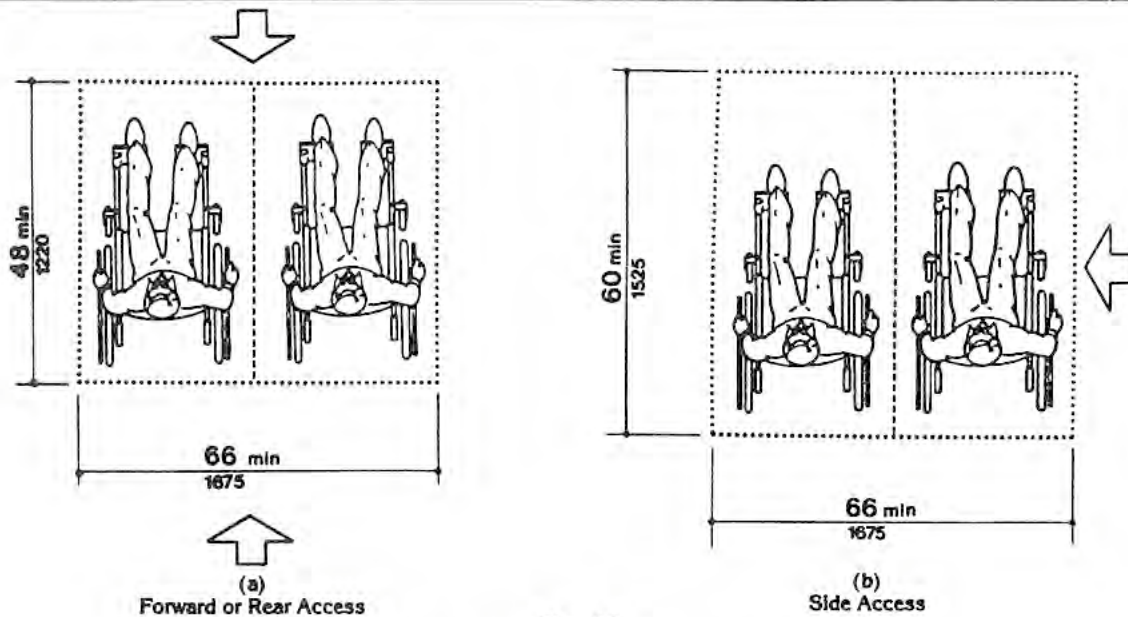


Fig. 46
Space Requirements for Wheelchair
Seating Spaces in Series

4.33.5 Access to Performing Areas**4.33.5 Access to Performing Areas.**

An accessible route shall connect wheelchair seating locations with performing areas, including stages, arena floors, dressing rooms, locker rooms, and other spaces used by performers.

4.33.6* Placement of Listening Systems.

If the listening system provided serves individual fixed seats, then such seats shall be located within a 50 ft (15 m) viewing distance of the stage or playing area and shall have a complete view of the stage or playing area.

4.33.7* Types of Listening Systems.

Assistive listening systems (ALS) are intended to augment standard public address and audio systems by providing signals which can be received directly by persons with special receivers or their own hearing aids and which eliminate or filter background noise. The type of assistive listening system appropriate for a particular application depends on the characteristics of the setting, the nature of the program, and the intended audience. Magnetic induction loops, infra-red and radio frequency systems are types of listening systems which are appropriate for various applications.

4.34 Automated Teller Machines.

4.34.1 General. Each automated teller machine required to be accessible by 4.1.3 shall be on an accessible route and shall comply with 4.34.

4.34.2 Clear Floor Space. The automated teller machine shall be located so that clear floor space complying with 4.2.4 is provided to allow a person using a wheelchair to make a forward approach, a parallel approach, or both, to the machine.

4.34.3 Reach Ranges.

(1) **Forward Approach Only.** If only a forward approach is possible, operable parts of all controls shall be placed within the forward reach range specified in 4.2.5.

(2) **Parallel Approach Only.** If only a parallel approach is possible, operable parts of controls shall be placed as follows:

(a) **Reach Depth Not More Than 10 in (255 mm).** Where the reach depth to the operable parts of all controls as measured from the vertical plane perpendicular to the edge of the

unobstructed clear floor space at the farthest protrusion of the automated teller machine or surround is not more than 10 in (255 mm), the maximum height above the finished floor or grade shall be 54 in (1370 mm).

(b) **Reach Depth More Than 10 in (255 mm).** Where the reach depth to the operable parts of any control as measured from the vertical plane perpendicular to the edge of the unobstructed clear floor space at the farthest protrusion of the automated teller machine or surround is more than 10 in (255 mm), the maximum height above the finished floor or grade shall be as follows:

Reach Depth		Maximum Height	
In	Mm	In	Mm
10	255	54	1370
11	280	53 1/2	1360
12	305	53	1345
13	330	52 1/2	1335
14	355	51 1/2	1310
15	380	51	1295
16	405	50 1/2	1285
17	430	50	1270
18	455	49 1/2	1255
19	485	49	1245
20	510	48 1/2	1230
21	535	47 1/2	1205
22	560	47	1195
23	585	46 1/2	1180
24	610	46	1170

(3) **Forward and Parallel Approach.** If both a forward and parallel approach are possible, operable parts of controls shall be placed within at least one of the reach ranges in paragraphs (1) or (2) of this section.

(4) **Bins.** Where bins are provided, for envelopes, waste paper, or other purposes, at least one of each type provided shall comply with the applicable reach ranges in paragraph (1), (2), or (3) of this section.

EXCEPTION: Where a function can be performed in a substantially equivalent manner by using an alternate control, only one of the controls needed to perform that function is required to comply with this section. If the controls are identified by tactile markings, such markings shall be provided on both controls.

4.34.4 Controls. Controls for user activation shall comply with 4.27.4.

4.35 Dressing and Fitting Rooms

4.34.5 Equipment for Persons with Vision Impairments. Instructions and all information for use shall be made accessible to and independently usable by persons with vision impairments.

4.35 Dressing and Fitting Rooms.

4.35.1 General. Dressing and fitting rooms required to be accessible by 4.1 shall comply with 4.35 and shall be on an accessible route.

4.35.2 Clear Floor Space. A clear floor space allowing a person using a wheelchair to make a 180-degree turn shall be provided in every accessible dressing room entered through a swinging or sliding door. No door shall swing into any part of the turning space. Turning space shall not be required in a private dressing room entered through a curtained opening at least 32 in (815 mm) wide if clear floor space complying with section 4.2 renders the dressing room usable by a person using a wheelchair.

4.35.3 Doors. All doors to accessible dressing rooms shall be in compliance with section 4.13.

4.35.4 Bench. Every accessible dressing room shall have a 24 in by 48 in (610 mm by 1220 mm) bench fixed to the wall along the longer dimension. The bench shall be mounted 17 in to 19 in (430 mm to 485 mm) above the finish floor. Clear floor space shall be provided alongside the bench to allow a person using a wheelchair to make a parallel transfer onto the bench. The structural strength of the bench and attachments shall comply with 4.26.3. Where installed in conjunction with showers, swimming pools, or other wet locations, water shall not accumulate upon the surface of the bench and the bench shall have a slip-resistant surface.

4.35.5 Mirror. Where mirrors are provided in dressing rooms of the same use, then in an accessible dressing room, a full-length mirror, measuring at least 18 in wide by 54 in high (460 mm by 1370 mm), shall be mounted in a position affording a view to a person on the bench as well as to a person in a standing position.

NOTE: Sections 4.1.1 through 4.1.7 and sections 5 through 10 are different from ANSI A117.1 in their entirety and are printed in standard type.

5. RESTAURANTS AND CAFETERIAS.

5.1* General. Except as specified or modified in this section, restaurants and cafeterias shall comply with the requirements of 4.1 to 4.35. Where fixed tables (or dining counters where food is consumed but there is no service) are provided, at least 5 percent, but not less than one, of the fixed tables (or a portion of the dining counter) shall be accessible and shall comply with 4.32 as required in 4.1.3(18). In establishments where separate areas are designated for smoking and non-smoking patrons, the required number of accessible fixed tables (or counters) shall be proportionally distributed between the smoking and non-smoking areas. In new construction, and where practicable in alterations, accessible fixed tables (or counters) shall be distributed throughout the space or facility.

5.2 Counters and Bars. Where food or drink is served at counters exceeding 34 in (865 mm) in height for consumption by customers seated on stools or standing at the counter, a portion of the main counter which is 60 in (1525 mm) in length minimum shall be provided in compliance with 4.32 or service shall be available at accessible tables within the same area.

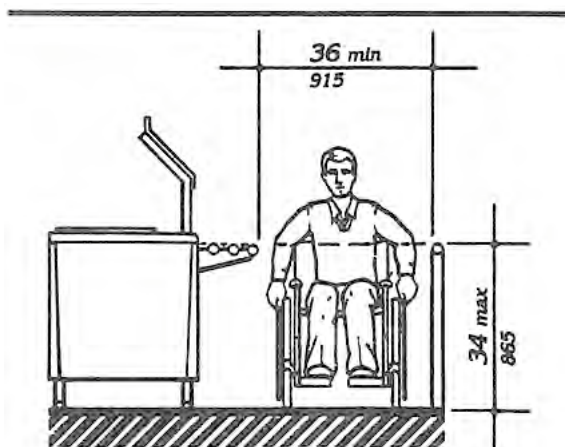


Fig. 53
Food Service Lines

5.3 Access Aisles. All accessible fixed tables shall be accessible by means of an access aisle at least 36 in (915 mm) clear between parallel edges of tables or between a wall and the table edges.

5.4 Dining Areas. In new construction, all dining areas, including raised or sunken dining areas, loggias, and outdoor seating areas, shall be accessible. In non-elevator buildings, an accessible means of vertical access to the mezzanine is not required under the following conditions: 1) the area of mezzanine seating measures no more than 33 percent of the area of the total accessible seating area; 2) the same services and decor are provided in an accessible space usable by the general public; and, 3) the accessible areas are not restricted to use by people with disabilities. In alterations, accessibility to raised or sunken dining areas, or to all parts of outdoor seating areas is not required provided that the same services and decor are provided in an accessible space usable by the general public and are not restricted to use by people with disabilities.

5.5 Food Service Lines. Food service lines shall have a minimum clear width of 36 in (915 mm), with a preferred clear width of 42 in (1065 mm) to allow passage around a person using a wheelchair. Tray slides shall be mounted no higher than 34 in (865 mm) above the floor (see Fig. 53). If self-service shelves are

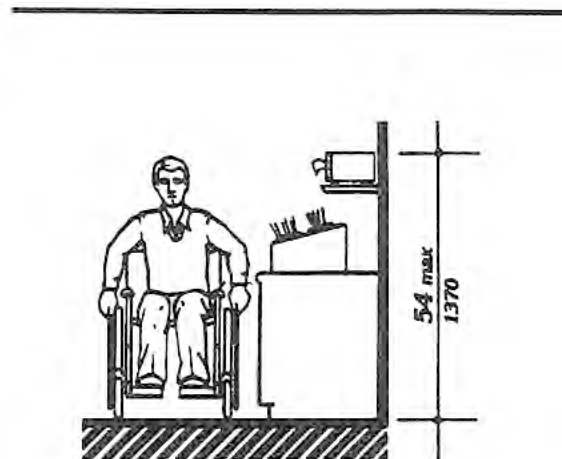


Fig. 54
Tableware Areas

6.0 Medical Care Facilities

provided, at least 50 percent of each type must be within reach ranges specified in 4.2.5 and 4.2.6.

5.6 Tableware and Condiment Areas.

Self-service shelves and dispensing devices for tableware, dishware, condiments, food and beverages shall be installed to comply with 4.2 (see Fig. 54).

5.7 Raised Platforms. In banquet rooms or spaces where a head table or speaker's lectern is located on a raised platform, the platform shall be accessible in compliance with 4.8 or 4.11. Open edges of a raised platform shall be protected by placement of tables or by a curb.

5.8 Vending Machines and Other Equipment. Spaces for vending machines and other equipment shall comply with 4.2 and shall be located on an accessible route.

5.9 Quiet Areas. (Reserved).

6.	MEDICAL CARE FACILITIES.
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6.1 General. Medical care facilities included in this section are those in which people receive physical or medical treatment or care and where persons may need assistance in responding to an emergency and where the period of stay may exceed twenty-four hours. In addition to the requirements of 4.1 through 4.35, medical care facilities and buildings shall comply with 6.

(1) Hospitals - general purpose hospitals, psychiatric facilities, detoxification facilities -- At least 10 percent of patient bedrooms and toilets, and all public use and common use areas are required to be designed and constructed to be accessible.

(2) Hospitals and rehabilitation facilities that specialize in treating conditions that affect mobility, or units within either that specialize in treating conditions that affect mobility - All patient bedrooms and toilets, and all public use and common use areas are required to be designed and constructed to be accessible.

(3) Long term care facilities, nursing homes -- At least 50 percent of patient bedrooms and toilets, and all public use and common use areas are required to be designed and constructed to be accessible.

(4) Alterations to patient bedrooms.

(a) When patient bedrooms are being added or altered as part of a planned renovation of an entire wing, a department, or other discrete area of an existing medical facility, a percentage of the patient bedrooms that are being added or altered shall comply with 6.3. The percentage of accessible rooms provided shall be consistent with the percentage of rooms required to be accessible by the applicable requirements of 6.1(1), 6.1(2), or 6.1(3), until the number of accessible patient bedrooms in the facility equals the overall number that would be required if the facility were newly constructed. (For example, if 20 patient bedrooms are being altered in the obstetrics department of a hospital, 2 of the altered rooms must be made accessible. If, within the same hospital, 20 patient bedrooms are being altered in a unit that specializes in treating mobility impairments, all of the altered rooms must be made accessible.) Where toilet/bathrooms are part of patient bedrooms which are added or altered and required to be accessible, each such patient toilet/bathroom shall comply with 6.4.

(b) When patient bedrooms are being added or altered individually, and not as part of an alteration of the entire area, the altered patient bedrooms shall comply with 6.3, unless either: a) the number of accessible rooms provided in the department or area containing the altered patient bedroom equals the number of accessible patient bedrooms that would be required if the percentage requirements of 6.1(1), 6.1(2), or 6.1(3) were applied to that department or area; or b) the number of accessible patient bedrooms in the facility equals the overall number that would be required if the facility were newly constructed. Where toilet/bathrooms are part of patient bedrooms which are added or altered and required to be accessible, each such toilet/bathroom shall comply with 6.4.

6.2 Entrances. At least one accessible entrance that complies with 4.14 shall be protected from the weather by canopy or roof overhang. Such entrances shall incorporate a passenger loading zone that complies with 4.6.6.

6.3 Patient Bedrooms. Provide accessible patient bedrooms in compliance with 4.1 through 4.35. Accessible patient bedrooms shall comply with the following:

(1) Each bedroom shall have a door that complies with 4.13.

EXCEPTION: Entry doors to acute care hospital bedrooms for in-patients shall be exempted from the requirement in 4.13.6 for maneuvering space at the latch side of the door if the door is at least 44 in (1120 mm) wide.

(2) Each bedroom shall have adequate space to provide a maneuvering space that complies with 4.2.3. In rooms with 2 beds, it is preferable that this space be located between beds.

(3) Each bedroom shall have adequate space to provide a minimum clear floor space of 36 in (915 mm) along each side of the bed and to provide an accessible route complying with 4.3.3 to each side of each bed.

6.4 Patient Toilet Rooms. Where toilet/bath rooms are provided as a part of a patient bedroom, each patient bedroom that is required to be accessible shall have an accessible toilet/bath room that complies with 4.22 or 4.23 and shall be on an accessible route.

7.

BUSINESS AND MERCANTILE.

7.1 General. In addition to the requirements of 4.1 to 4.35, the design of all areas used for business transactions with the public shall comply with 7.

7.2 Sales and Service Counters, Teller Windows, Information Counters.

(1) In department stores and miscellaneous retail stores where counters have cash registers and are provided for sales or distribution of goods or services to the public, at least one of each type shall have a portion of the counter which is at least 36 in (915mm) in length with a maximum height of 36 in (915 mm) above the finish floor. It shall be on an accessible route complying with 4.3. The accessible counters must be dispersed throughout the building or facility. In alterations where it is technically infeasible to provide an accessible counter, an auxiliary counter meeting these requirements may be provided.

(2) At ticketing counters, teller stations in a bank, registration counters in hotels and motels, box office ticket counters, and other counters that may not have a cash register but at which goods or services are sold or distributed, either:

(i) a portion of the main counter which is a minimum of 36 in (915 mm) in length shall be provided with a maximum height of 36 in (915 mm); or

(ii) an auxiliary counter with a maximum height of 36 in (915 mm) in close proximity to the main counter shall be provided; or

(iii) equivalent facilitation shall be provided (e.g., at a hotel registration counter, equivalent facilitation might consist of: (1) provision of a folding shelf attached to the main counter on which an individual with disabilities can write, and (2) use of the space on the side of the counter or at the concierge desk, for handing materials back and forth).

All accessible sales and service counters shall be on an accessible route complying with 4.3.

(3)* Assistive Listening Devices. (Reserved)

8.0 Libraries

7.3* Check-out Aisles.

(1) In new construction, accessible check-out aisles shall be provided in conformance with the table below:

Total Check-out Aisles of Each Design	Minimum Number of Accessible Check-out Aisles (of each design)
1 - 4	1
5 - 8	2
8 - 15	3
over 15	3, plus 20% of additional aisles

EXCEPTION: In new construction, where the selling space is under 5000 square feet, only one check-out aisle is required to be accessible.

EXCEPTION: In alterations, at least one check-out aisle shall be accessible in facilities under 5000 square feet of selling space. In facilities of 5000 or more square feet of selling space, at least one of each design of check-out aisle shall be made accessible when altered until the number of accessible check-out aisles of each design equals the number required in new construction.

Examples of check-out aisles of different "design" include those which are specifically designed to serve different functions. Different "design" includes but is not limited to the following features - length of belt or no belt; or permanent signage designating the aisle as an express lane.

(2) Clear aisle width for accessible check-out aisles shall comply with 4.2.1 and maximum adjoining counter height shall not exceed 38 in (965 mm) above the finish floor. The top of the lip shall not exceed 40 in (1015 mm) above the finish floor.

(3) Signage identifying accessible check-out aisles shall comply with 4.30.7 and shall be mounted above the check-out aisle in the same location where the check-out number or type of check-out is displayed.

7.4 Security Bollards. Any device used to prevent the removal of shopping carts from store premises shall not prevent access or egress to people in wheelchairs. An alternate

entry that is equally convenient to that provided for the ambulatory population is acceptable.

8.	LIBRARIES.
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8.1 General. In addition to the requirements of 4.1 to 4.35, the design of all public areas of a library shall comply with 8, including reading and study areas, stacks, reference rooms, reserve areas, and special facilities or collections.

8.2 Reading and Study Areas. At least 5 percent or a minimum of one of each element of fixed seating, tables, or study carrels shall comply with 4.2 and 4.32. Clearances between fixed accessible tables and between study carrels shall comply with 4.3.

8.3 Check-Out Areas. At least one lane at each check-out area shall comply with 7.2(1). Any traffic control or book security gates or turnstiles shall comply with 4.13.

8.4 Card Catalogs and Magazine Displays. Minimum clear aisle space at card catalogs and magazine displays shall comply with Fig. 55. Maximum reach height shall comply with 4.2, with a height of 48 in (1220 mm) preferred irrespective of approach allowed.

8.5 Stacks. Minimum clear aisle width between stacks shall comply with 4.3, with a minimum clear aisle width of 42 in (1065 mm) preferred where possible. Shelf height in stack areas is unrestricted (see Fig. 56).

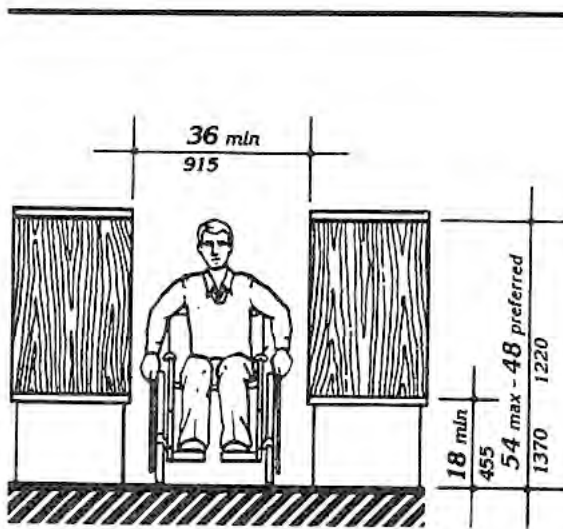


Fig. 55
Card Catalog

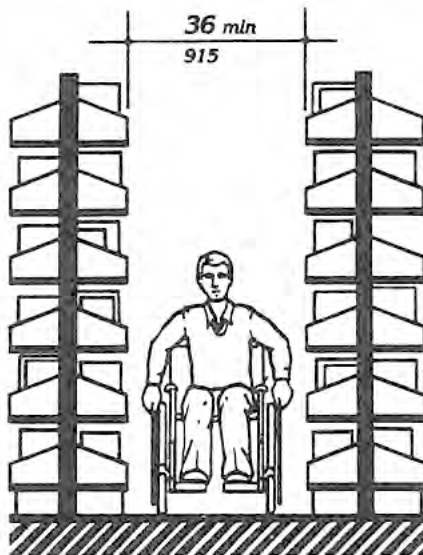


Fig. 56
Stacks

9. ACCESSIBLE TRANSIENT LODGING.

(1) Except as specified in the special technical provisions of this section, accessible transient lodging shall comply with the applicable requirements of 4.1 through 4.35. Transient lodging includes facilities or portions thereof used for sleeping accommodations, when not classed as a medical care facility.

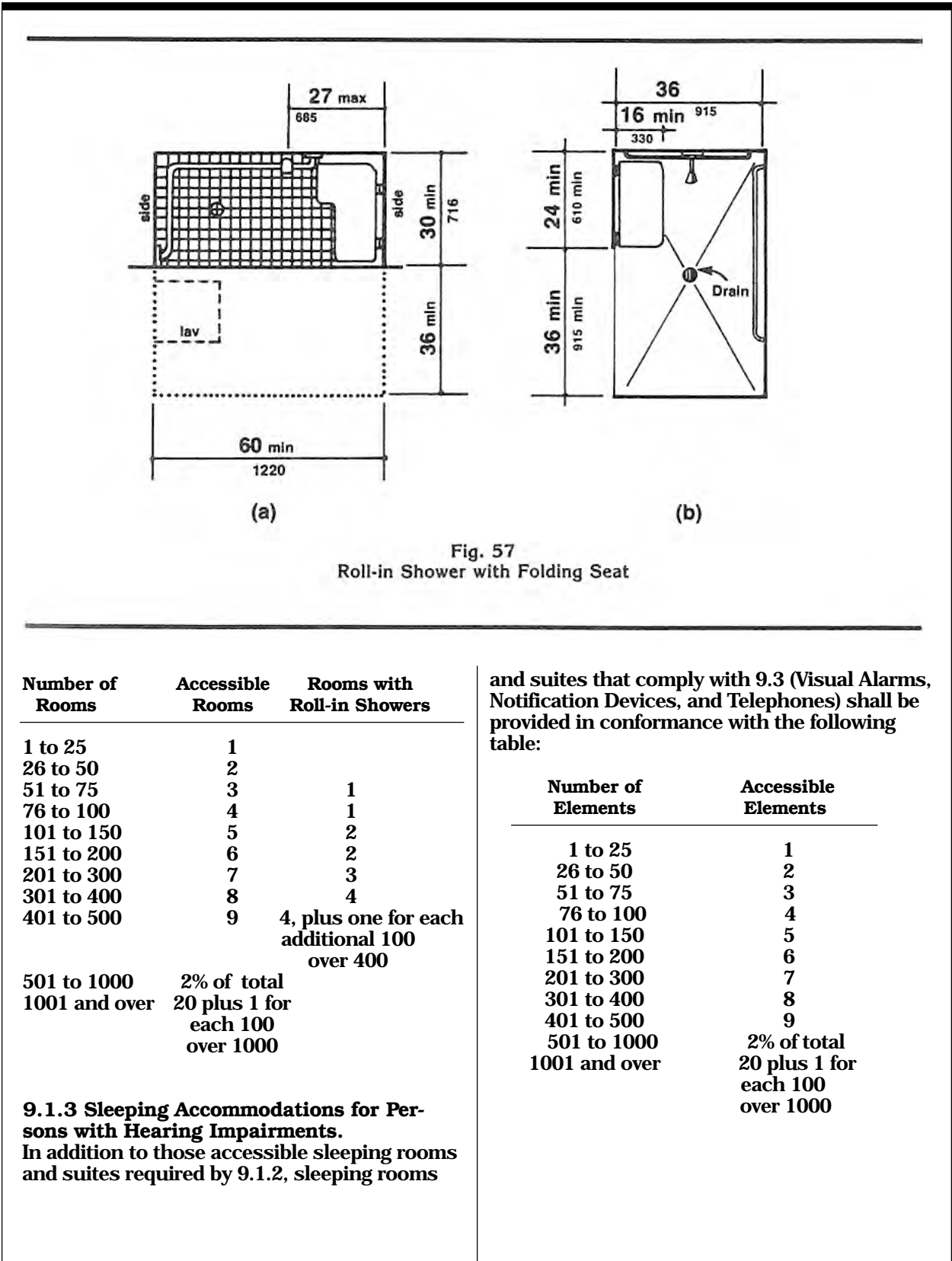
9.1 Hotels, Motels, Inns, Boarding Houses, Dormitories, Resorts and Other Similar Places of Transient Lodging.

9.1.1 General. All public use and common use areas are required to be designed and constructed to comply with section 4 (Accessible Elements and Spaces: Scope and Technical Requirements).

EXCEPTION: Sections 9.1 through 9.4 do not apply to an establishment located within a building that contains not more than five rooms for rent or hire and that is actually occupied by the proprietor of such establishment as the residence of such proprietor.

9.1.2 Accessible Units, Sleeping Rooms, and Suites. Accessible sleeping rooms or suites that comply with the requirements of 9.2 (Requirements for Accessible Units, Sleeping Rooms, and Suites) shall be provided in conformance with the table below. In addition, in hotels, of 50 or more sleeping rooms or suites, additional accessible sleeping rooms or suites that include a roll-in shower shall also be provided in conformance with the table below. Such accommodations shall comply with the requirements of 9.2, 4.21, and Figure 57(a) or (b).

9.1.3 Sleeping Accommodations for Persons with Hearing Impairments



Number of Rooms	Accessible Rooms	Rooms with Roll-in Showers
1 to 25	1	
26 to 50	2	
51 to 75	3	1
76 to 100	4	1
101 to 150	5	2
151 to 200	6	2
201 to 300	7	3
301 to 400	8	4
401 to 500	9	4, plus one for each additional 100 over 400
501 to 1000	2% of total	
1001 and over	20 plus 1 for each 100 over 1000	

9.1.3 Sleeping Accommodations for Persons with Hearing Impairments.
In addition to those accessible sleeping rooms and suites required by 9.1.2, sleeping rooms

and suites that comply with 9.3 (Visual Alarms, Notification Devices, and Telephones) shall be provided in conformance with the following table:

Number of Elements	Accessible Elements
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	2% of total
1001 and over	20 plus 1 for each 100 over 1000

9.2 Requirements for Accessible Units, Sleeping Rooms and Suites

<p>9.1.4 Classes of Sleeping Accommodations.</p> <p>(1) In order to provide persons with disabilities a range of options equivalent to those available to other persons served by the facility, sleeping rooms and suites required to be accessible by 9.1.2 shall be dispersed among the various classes of sleeping accommodations available to patrons of the place of transient lodging. Factors to be considered include room size, cost, amenities provided, and the number of beds provided.</p> <p>(2) Equivalent Facilitation. For purposes of this section, it shall be deemed equivalent facilitation if the operator of a facility elects to limit construction of accessible rooms to those intended for multiple occupancy, provided that such rooms are made available at the cost of a single occupancy room to an individual with disabilities who requests a single-occupancy room.</p> <p>9.1.5. Alterations to Accessible Units, Sleeping Rooms, and Suites. When sleeping rooms are being altered in an existing facility, or portion thereof, subject to the requirements of this section, at least one sleeping room or suite that complies with the requirements of 9.2 (Requirements for Accessible Units, Sleeping Rooms, and Suites) shall be provided for each 25 sleeping rooms, or fraction thereof, of rooms being altered until the number of such rooms provided equals the number required to be accessible with 9.1.2. In addition, at least one sleeping room or suite that complies with the requirements of 9.3 (Visual Alarms, Notification Devices, and Telephones) shall be provided for each 25 sleeping rooms, or fraction thereof, of rooms being altered until the number of such rooms equals the number required to be accessible by 9.1.3.</p> <p>9.2 Requirements for Accessible Units, Sleeping Rooms and Suites.</p> <p>9.2.1 General. Units, sleeping rooms, and suites required to be accessible by 9.1 shall comply with 9.2.</p> <p>9.2.2 Minimum Requirements. An accessible unit, sleeping room or suite shall be on an</p>	<p>accessible route complying with 4.3 and have the following accessible elements and spaces.</p> <p>(1) Accessible sleeping rooms shall have a 36 in (915 mm) clear width maneuvering space located along both sides of a bed, except that where two beds are provided, this requirement can be met by providing a 36 in (915 mm) wide maneuvering space located between the two beds.</p> <p>(2) An accessible route complying with 4.3 shall connect all accessible spaces and elements, including telephones, within the unit, sleeping room, or suite. This is not intended to require an elevator in multi-story units as long as the spaces identified in 9.2.2(6) and (7) are on accessible levels and the accessible sleeping area is suitable for dual occupancy.</p> <p>(3) Doors and doorways designed to allow passage into and within all sleeping rooms, suites or other covered units shall comply with 4.13.</p> <p>(4) If fixed or built-in storage facilities such as cabinets, shelves, closets, and drawers are provided in accessible spaces, at least one of each type provided shall contain storage space complying with 4.25. Additional storage may be provided outside of the dimensions required by 4.25.</p> <p>(5) All controls in accessible units, sleeping rooms, and suites shall comply with 4.27.</p> <p>(6) Where provided as part of an accessible unit, sleeping room, or suite, the following spaces shall be accessible and shall be on an accessible route:</p> <ul style="list-style-type: none"> (a) the living area. (b) the dining area. (c) at least one sleeping area. (d) patios, terraces, or balconies. <p>EXCEPTION: The requirements of 4.13.8 and 4.3.8 do not apply where it is necessary to utilize a higher door threshold or a change in level to protect the integrity of the unit from wind/water damage. Where this exception results in patios, terraces or balconies that are not at an accessible level, equivalent facilitation</p>
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9.3 Visual Alarms, Notification Devices and Telephones

shall be provided. (E.g., Equivalent facilitation at a hotel patio or balcony might consist of providing raised decking or a ramp to provide accessibility).

(e) at least one full bathroom (i.e., one with a water closet, a lavatory, and a bathtub or shower).

(f) if only half baths are provided, at least one half bath. (g) carports, garages or parking spaces.

(7) Kitchens, Kitchenettes, or Wet Bars. When provided as accessory to a sleeping room or suite, kitchens, kitchenettes, wet bars, or similar amenities shall be accessible. Clear floor space for a front or parallel approach to cabinets, counters, sinks, and appliances shall be provided to comply with 4.2.4. Countertops and sinks shall be mounted at a maximum height of 34 in (865 mm) above the floor. At least fifty percent of shelf space in cabinets or refrigerator/freezers shall be within the reach ranges of 4.2.5 or 4.2.6 and space shall be designed to allow for the operation of cabinet and/or appliance doors so that all cabinets and appliances are accessible and usable. Controls and operating mechanisms shall comply with 4.27.

(8) Sleeping room accommodations for persons with hearing impairments required by 9.1 and complying with 9.3 shall be provided in the accessible sleeping room or suite.

9.3 Visual Alarms, Notification Devices and Telephones.

9.3.1 General. In sleeping rooms required to comply with this section, auxiliary visual alarms shall be provided and shall comply with 4.28.4. Visual notification devices shall also be provided in units, sleeping rooms and suites to alert room occupants of incoming telephone calls and a door knock or bell. Notification devices shall not be connected to auxiliary visual alarm signal appliances. Permanently installed telephones shall have volume controls complying with 4.31.5; an accessible electrical outlet within 4 ft (1220 mm) of a telephone connection shall be provided to facilitate the use of a text telephone.

9.3.2 Equivalent Facilitation. For purposes of this section, equivalent facilitation shall include the installation of electrical outlets (including outlets connected to a facility's central alarm system) and telephone wiring in sleeping rooms and suites to enable persons with hearing impairments to utilize portable visual alarms and communication devices provided by the operator of the facility.

9.4 Other Sleeping Rooms and Suites. Doors and doorways designed to allow passage into and within all sleeping units or other covered units shall comply with 4.13.5.

9.5 Transient Lodging in Homeless Shelters, Halfway Houses, Transient Group Homes, and Other Social Service Establishments.

9.5.1 New Construction. In new construction all public use and common use areas are required to be designed and constructed to comply with section 4. At least one of each type of amenity (such as washers, dryers and similar equipment installed for the use of occupants) in each common area shall be accessible and shall be located on an accessible route to any accessible unit or sleeping accommodation.

EXCEPTION: Where elevators are not provided as allowed in 4.1.3(5), accessible amenities are not required on inaccessible floors as long as one of each type is provided in common areas on accessible floors.

9.5.2 Alterations.

(1) Social service establishments which are not homeless shelters:

(a) The provisions of 9.5.3 and 9.1.5 shall apply to sleeping rooms and beds.

(b) Alteration of other areas shall be consistent with the new construction provisions of 9.5.1.

(2) Homeless shelters. If the following elements are altered, the following requirements apply:

(a) at least one public entrance shall allow a person with mobility impairments to approach, enter and exit including a minimum clear door width of 32 in (815 mm).

(b) sleeping space for homeless persons as provided in the scoping provisions of 9.1.2 shall include doors to the sleeping area with a minimum clear width of 32 in (815 mm) and maneuvering space around the beds for persons with mobility impairments complying with 9.2.2(1).

(c) at least one toilet room for each gender or one unisex toilet room shall have a minimum clear door width of 32 in (815 mm), minimum turning space complying with 4.2.3, one water closet complying with 4.16, one lavatory complying with 4.19 and the door shall have a privacy latch; and, if provided, at least one tub or shower shall comply with 4.20 or 4.21, respectively.

(d) at least one common area which a person with mobility impairments can approach, enter and exit including a minimum clear door width of 32 in (815 mm).

(e) at least one route connecting elements (a), (b), (c) and (d) which a person with mobility impairments can use including minimum clear width of 36 in (915 mm), passing space complying with 4.3.4, turning space complying with 4.2.3 and changes in levels complying with 4.3.8.

(f) homeless shelters can comply with the provisions of (a)-(e) by providing the above elements on one accessible floor.

9.5.3. Accessible Sleeping Accommodations in New Construction. Accessible sleeping rooms shall be provided in conformance with the table in 9.1.2 and shall comply with 9.2 Accessible Units, Sleeping Rooms and Suites (where the items are provided). Additional sleeping rooms that comply with 9.3 Sleeping Accommodations for Persons with Hearing Impairments shall be provided in conformance with the table provided in 9.1.3.

In facilities with multi-bed rooms or spaces, a percentage of the beds equal to the table provided in 9.1.2 shall comply with 9.2.2(1).

10. TRANSPORTATION FACILITIES

10.1 General. Every station, bus stop, bus stop pad, terminal, building or other transportation facility, shall comply with the applicable provisions of 4.1 through 4.35, sections 5 through 9, and the applicable provisions of this section. The exceptions for elevators in 4.1.3(5) exception 1 and 4.1.6(1)(k) do not apply to a terminal, depot, or other station used for specified public transportation, or an airport passenger terminal, or facilities subject to Title II.

10.2 Bus Stops and Terminals.

10.2.1 New Construction.

(1) Where new bus stop pads are constructed at bus stops, bays or other areas where a lift or ramp is to be deployed, they shall have a firm, stable surface; a minimum clear length of 96 inches (measured from the curb or vehicle roadway edge) and a minimum clear width of 60 inches (measured parallel to the vehicle roadway) to the maximum extent allowed by legal or site constraints; and shall be connected to streets, sidewalks or pedestrian paths by an accessible route complying with 4.3 and 4.4. The slope of the pad parallel to the roadway shall, to the extent practicable, be the same as the roadway. For water drainage, a maximum slope of 1:50 (2%) perpendicular to the roadway is allowed.

(2) Where provided, new or replaced bus shelters shall be installed or positioned so as to permit a wheelchair or mobility aid user to enter from the public way and to reach a location, having a minimum clear floor area of 30 inches by 48 inches, entirely within the perimeter of the shelter. Such shelters shall be connected by an accessible route to the boarding area provided under paragraph (1) of this section.

(3) Where provided, all new bus route identification signs shall comply with 4.30.5. In addition, to the maximum extent practicable, all new bus route identification signs shall comply with 4.30.2 and 4.30.3. Signs that are

10.3 Fixed Facilities and Stations

sized to the maximum dimensions permitted under legitimate local, state or federal regulations or ordinances shall be considered in compliance with 4.30.2 and 4.30.3 for purposes of this section.

EXCEPTION: Bus schedules, timetables, or maps that are posted at the bus stop or bus bay are not required to comply with this provision.

10.2.2 Bus Stop Siting and Alterations.

(1) Bus stop sites shall be chosen such that, to the maximum extent practicable, the areas where lifts or ramps are to be deployed comply with section 10.2.1(1) and (2).

(2) When new bus route identification signs are installed or old signs are replaced, they shall comply with the requirements of 10.2.1(3).

10.3 Fixed Facilities and Stations.

10.3.1 New Construction. New stations in rapid rail, light rail, commuter rail, intercity bus, intercity rail, high speed rail, and other fixed guideway systems (e.g., automated guideway transit, monorails, etc.) shall comply with the following provisions, as applicable.

(1) Elements such as ramps, elevators or other circulation devices, fare vending or other ticketing areas, and fare collection areas shall be placed to minimize the distance which wheelchair users and other persons who cannot negotiate steps may have to travel compared to the general public. The circulation path, including an accessible entrance and an accessible route, for persons with disabilities shall, to the maximum extent practicable, coincide with the circulation path for the general public. Where the circulation path is different, signage complying with 4.30.1, 4.30.2, 4.30.3, 4.30.5, and 4.30.7(1) shall be provided to indicate direction to and identify the accessible entrance and accessible route.

(2) In lieu of compliance with 4.1.3(8), at least one entrance to each station shall comply with 4.14, Entrances. If different entrances to a station serve different transportation fixed routes or groups of fixed routes, at least one entrance serving each group or route shall

comply with 4.14, Entrances. All accessible entrance shall, to the maximum extent practicable, coincide with those used by the majority of the general public.

(3) Direct connections to commercial, retail, or residential facilities shall have an accessible route complying with 4.3 from the point of connection to boarding platforms and all transportation system elements used by the public. Any elements provided to facilitate future direct connections shall be on an accessible route connecting boarding platforms and all transportation system elements used by the public.

(4) Where signs are provided at entrances to stations identifying the station or the entrance, or both, at least one sign at each entrance shall comply with 4.30.4 and 4.30.6. Such signs shall be placed in uniform locations at entrances within the transit system to the maximum extent practicable.

EXCEPTION: Where the station has no defined entrance, but signage is provided, then the accessible signage shall be placed in a central location.

(5) Stations covered by this section shall have identification signs complying with 4.30.1, 4.30.2, 4.30.3, and 4.30.5. Signs shall be placed at frequent intervals and shall be clearly visible from within the vehicle on both sides when not obstructed by another train. When station identification signs are placed close to vehicle windows (i.e., on the side opposite from boarding) each shall have the top of the highest letter or symbol below the top of the vehicle window and the bottom of the lowest letter or symbol above the horizontal mid-line of the vehicle window.

(6) Lists of stations, routes, or destinations served by the station and located on boarding areas, platforms, or mezzanines shall comply with 4.30.1, 4.30.2, 4.30.3, and 4.30.5. A minimum of one sign identifying the specific station and complying with 4.30.4 and 4.30.6 shall be provided on each platform or boarding area. All signs referenced in this paragraph shall, to the maximum extent practicable, be placed in uniform locations within the transit system.

(7)* Automatic fare vending, collection and adjustment (e.g., add-fare) systems shall comply with 4.34.2, 4.34.3, 4.34.4, and 4.34.5. At each accessible entrance such devices shall be located on an accessible route. If self-service fare collection devices are provided for the use of the general public, at least one accessible device for entering, and at least one for exiting, unless one device serves both functions, shall be provided at each accessible point of entry or exit. Accessible fare collection devices shall have a minimum clear opening width of 32 in; shall permit passage of a wheelchair; and, where provided, coin or card slots and controls necessary for operation shall comply with 4.27. Gates which must be pushed open by wheelchair or mobility aid users shall have a smooth continuous surface extending from 2 inches above the floor to 27 inches above the floor and shall comply with 4.13. Where the circulation path does not coincide with that used by the general public, accessible fare collection systems shall be located at or adjacent to the accessible point of entry or exit.

(8) Platform edges bordering a drop-off and not protected by platform screens or guard rails shall have a detectable warning. Such detectable warnings shall comply with 4.29.2 and shall be 24 inches wide running the full length of the platform drop-off.

(9) In stations covered by this section, rail-to-platform height in new stations shall be coordinated with the floor height of new vehicles so that the vertical difference, measured when the vehicle is at rest, is within plus or minus 5/8 inch under normal passenger load conditions. For rapid rail, light rail, commuter rail, high speed rail, and intercity rail systems in new stations, the horizontal gap, measured when the new vehicle is at rest, shall be no greater than 3 in. For slow moving automated guideway "people mover" transit systems, the horizontal gap in new stations shall be no greater than 1 in.

EXCEPTION 1: Existing vehicles operating in new stations may have a vertical difference with respect to the new platform within plus or minus 1-1/2 in.

EXCEPTION 2: In light rail, commuter rail and intercity rail systems where it is not operationally or structurally feasible to meet the horizontal gap or vertical difference

requirements, mini-high platforms, car-borne or platform-mounted lifts, ramps or bridge plates, or similar manually deployed devices, meeting the applicable requirements of 36 C.F.R. part 1192, or 49 C.F.R. part 38 shall suffice.

(10) Stations shall not be designed or constructed so as to require persons with disabilities to board or alight from a vehicle at a location other than one used by the general public.

(11) Illumination levels in the areas where signage is located shall be uniform and shall minimize glare on signs. Lighting along circulation routes shall be of a type and configuration to provide uniform illumination.

(12) Text Telephones: The following shall be provided in accordance with 4.31.9:

(a) If an interior public pay telephone is provided in a transit facility (as defined by the Department of Transportation) at least one interior public text telephone shall be provided in the station.

(b) Where four or more public pay telephones serve a particular entrance to a rail station and at least one is in an interior location, at least one interior public text telephone shall be provided to serve that entrance. Compliance with this section constitutes compliance with section 4.1.3(17)(c).

(13) Where it is necessary to cross tracks to reach boarding platforms, the route surface shall be level and flush with the rail top at the outer edge and between rails, except for a maximum 2-1/2 inch gap on the inner edge of each rail to permit passage of wheel flanges. Such crossings shall comply with 4.29.5. Where gap reduction is not practicable, an above-grade or below-grade accessible route shall be provided.

(14) Where public address systems are provided to convey information to the public in terminals, stations, or other fixed facilities, a means of conveying the same or equivalent information to persons with hearing loss or who are deaf shall be provided.

10.3.2 Existing Facilities: Key Stations

(15) Where clocks are provided for use by the general public, the clock face shall be uncluttered so that its elements are clearly visible. Hands, numerals, and/or digits shall contrast with the background either light-on-dark or dark-on-light. Where clocks are mounted overhead, numerals and/or digits shall comply with 4.30.3. Clocks shall be placed in uniform locations throughout the facility and system to the maximum extent practicable.

(16) Where provided in below grade stations, escalators shall have a minimum clear width of 32 inches. At the top and bottom of each escalator run, at least two contiguous treads shall be level beyond the comb plate before the risers begin to form. All escalator treads shall be marked by a strip of clearly contrasting color, 2 inches in width, placed parallel to and on the nose of each step. The strip shall be of a material that is at least as slip resistant as the remainder of the tread. The edge of the tread shall be apparent from both ascending and descending directions.

(17) Where provided, elevators shall be glazed or have transparent panels to allow an unobstructed view both in to and out of the car. Elevators shall comply with 4.10.

EXCEPTION: Elevator cars with a clear floor area in which a 60 inch diameter circle can be inscribed may be substituted for the minimum car dimensions of 4.10, Fig. 22.

(18) Where provided, ticketing areas shall permit persons with disabilities to obtain a ticket and check baggage and shall comply with 7.2.

(19) Where provided, baggage check-in and retrieval systems shall be on an accessible route complying with 4.3, and shall have space immediately adjacent complying with 4.2. If unattended security barriers are provided, at least one gate shall comply with 4.13. Gates which must be pushed open by wheelchair or mobility aid users shall have a smooth continuous surface extending from 2 inches above the floor to 27 inches above the floor.

10.3.2 Existing Facilities: Key Stations.

(1) Rapid, light and commuter rail key stations, as defined under criteria established by the Department of Transportation in subpart C of 49 CFR part 37 and existing intercity rail stations shall provide at least one accessible route from an accessible entrance to those areas necessary for use of the transportation system.

(2) The accessible route required by 10.3.2(1) shall include the features specified in 10.3.1(1), (4)-(9), (11)-(15), and (17)-(19).

(3) Where technical infeasibility in existing stations requires the accessible route to lead from the public way to a paid area of the transit system, an accessible fare collection system, complying with 10.3.1(7), shall be provided along such accessible route.

(4) In light rail, rapid rail and commuter rail key stations, the platform or a portion thereof and the vehicle floor shall be coordinated so that the vertical difference, measured when the vehicle is at rest, is within plus or minus 1-1/2 inches under all normal passenger load conditions, and the horizontal gap, measured when the vehicle is at rest, is no greater than 3 inches for at least one door of each vehicle or car required to be accessible by 49 CFR part 37.

EXCEPTION 1: Existing vehicles retrofitted to meet the requirements of 49 CFR 37.93 (one-car-per-train rule) shall be coordinated with the platform such that, for at least one door, the vertical difference between the vehicle floor and the platform, measured when the vehicle is at rest with 50% normal passenger capacity, is within plus or minus 2 inches and the horizontal gap is no greater than 4 inches.

EXCEPTION 2: Where it is not structurally or operationally feasible to meet the horizontal gap or vertical difference requirements, mini-high platforms, car-borne or platform mounted lifts, ramps or bridge plates, or similar manually deployed devices, meeting the applicable requirements of 36 CFR part 1192, or 49 CFR part 38, shall suffice.

(5) New direct connections to commercial, retail, or residential facilities shall, to the maximum extent feasible, have an accessible route complying with 4.3 from the point of connection to boarding platforms and all transportation system elements used by the public. Any elements provided to facilitate future direct connections shall be on an accessible route connecting boarding platforms and all transportation system elements used by the public.

10.3.3 Existing Facilities: Alterations.

(1) For the purpose of complying with 4.1.6(2) Alterations to an Area Containing a Primary Function, an area of primary function shall be as defined by applicable provisions of 49 C.F.R. 37.43(c) (Department of Transportation's ADA Rule) or 28 C.F.R. 36.403 (Department of Justice's ADA Rule).

10.4 Airports.

10.4.1 New Construction.

(1) Elements such as ramps, elevators or other vertical circulation devices, ticketing areas, security checkpoints, or passenger waiting areas shall be placed to minimize the distance which wheelchair users and other persons who cannot negotiate steps may have to travel compared to the general public.

(2) The circulation path, including an accessible entrance and an accessible route, for persons with disabilities shall, to the maximum extent practicable, coincide with the circulation path for the general public. Where the circulation path is different, directional signage complying with 4.30.1, 4.30.2, 4.30.3 and 4.30.5 shall be provided which indicates the location of the nearest accessible entrance and its accessible route.

(3) Ticketing areas shall permit persons with disabilities to obtain a ticket and check baggage and shall comply with 7.2.

(4) Where public pay telephones are provided, and at least one is at an interior location, a public text telephone shall be provided in compliance with 4.31.9. Additionally, if four or more public pay telephones are located in

any of the following locations, at least one public text telephone shall also be provided in that location:

- (a) a main terminal outside the security areas;
- (b) a concourse within the security areas; or
- (c) a baggage claim area in a terminal.

Compliance with this section constitutes compliance with section 4.1.3(17)(c).

(5) Baggage check-in and retrieval systems shall be on an accessible route complying with 4.3, and shall have space immediately adjacent complying with 4.2.4. If unattended security barriers are provided, at least one gate shall comply with 4.13. Gates which must be pushed open by wheelchair or mobility aid users shall have a smooth continuous surface extending from 2 inches above the floor to 27 inches above the floor.

(6) Terminal information systems which broadcast information to the general public through a public address system shall provide a means to provide the same or equivalent information to persons with a hearing loss or who are deaf. Such methods may include, but are not limited to, visual paging systems using video monitors and computer technology. For persons with certain types of hearing loss such methods may include, but are not limited to, an assistive listening system complying with 4.33.7.

(7) Where clocks are provided for use by the general public the clock face shall be uncluttered so that its elements are clearly visible. Hands, numerals, and/or digits shall contrast with their background either light-on-dark or dark-on-light. Where clocks are mounted overhead, numerals and/or digits shall comply with 4.30.3. Clocks shall be placed in uniform locations throughout the facility to the maximum extent practicable.

(8) Security Systems. (Reserved).

10.5 Boat and Ferry Docks. (Reserved).

APPENDIX

This appendix contains *materials of an advisory nature* and provides additional information that should help the reader to understand the minimum requirements of the *guidelines* or to design buildings or facilities for greater accessibility. The paragraph numbers correspond to the sections or paragraphs of the *guideline* to which the material relates and are therefore not consecutive (for example, A4.2.1 contains additional information relevant to 4.2.1). Sections of the *guidelines* for which additional material appears in this appendix have been indicated by an asterisk. *Nothing in this appendix shall in any way obviate any obligation to comply with the requirements of the guidelines itself.*

A2.2 Equivalent Facilitation. *Specific examples of equivalent facilitation are found in the following sections:*

- | | |
|-------------|--|
| 4.1.6(3)(c) | Elevators in Alterations |
| 4.31.9 | Text Telephones |
| 7.2 | Sales and Service
Counters, Teller Windows,
Information Counters |
| 9.1.4 | Classes of Sleeping
Accommodations |
| 9.2.2(6)(d) | Requirements for Accessible
Units, Sleeping Rooms, and
Suites |

A4.1.1 Application.

A4.1.1(3) Areas Used Only by Employees as Work Areas. *Where there are a series of individual work stations of the same type (e.g., laboratories, service counters, ticket booths), 5%, but not less than one, of each type of work station should be constructed so that an individual with disabilities can maneuver within the work stations. Rooms housing individual offices in a typical office building must meet the requirements of the guidelines concerning doors, accessible routes, etc. but do not need to allow for maneuvering space around individual desks. Modifications required to permit maneuvering within the work area may be accomplished as a reasonable accommodation to individual employees with disabilities under Title I of the ADA. Consideration should also be given to placing shelves in employee work areas at a convenient height for accessibility or*

installing commercially available shelving that is adjustable so that reasonable accommodations can be made in the future.

If work stations are made accessible they should comply with the applicable provisions of 4.2 through 4.35.

A4.1.2 Accessible Sites and Exterior Facilities: New Construction.

A4.1.2(5)(e) Valet Parking. *Valet parking is not always usable by individuals with disabilities. For instance, an individual may use a type of vehicle controls that render the regular controls inoperable or the driver's seat in a van may be removed. In these situations, another person cannot park the vehicle. It is recommended that some self-parking spaces be provided at valet parking facilities for individuals whose vehicles cannot be parked by another person and that such spaces be located on an accessible route to the entrance of the facility.*

A4.1.3 Accessible Buildings: New Construction.

A4.1.3(5) Only full passenger elevators are covered by the accessibility provisions of 4.10. *Materials and equipment hoists, freight elevators not intended for passenger use, dumbwaiters, and construction elevators are not covered by these guidelines. If a building is exempt from the elevator requirement, it is not necessary to provide a platform lift or other means of vertical access in lieu of an elevator.*

Under Exception 4, platform lifts are allowed where existing conditions make it impractical to install a ramp or elevator. Such conditions generally occur where it is essential to provide access to small raised or lowered areas where space may not be available for a ramp. Examples include, but are not limited to, raised pharmacy platforms, commercial offices raised above a sales floor, or radio and news booths.

A4.1.3(9) Supervised automatic sprinkler systems have built in signals for monitoring features of the system such as the opening and closing of water control valves, the power supplies for needed pumps, water tank levels, and for indicating conditions that will impair the satisfactory operation of the sprinkler system.

A4.2 Space Allowances and Reach Ranges

Because of these monitoring features, supervised automatic sprinkler systems have a high level of satisfactory performance and response to fire conditions.

A4.1.3(10) *If an odd number of drinking fountains is provided on a floor, the requirement in 4.1.3(10)(b) may be met by rounding down the odd number to an even number and calculating 50% of the even number. When more than one drinking fountain on a floor is required to comply with 4.15, those fountains should be dispersed to allow wheelchair users convenient access. For example, in a large facility such as a convention center that has water fountains at several locations on a floor, the accessible water fountains should be located so that wheelchair users do not have to travel a greater distance than other people to use a drinking fountain.*

A4.1.3(17)(b) *In addition to the requirements of section 4.1.3(17)(b), the installation of additional volume controls is encouraged. Volume controls may be installed on any telephone.*

A4.1.3(19)(a) *Readily removable or folding seating units may be installed in lieu of providing an open space for wheelchair users. Folding seating units are usually two fixed seats that can be easily folded into a fixed center bar to allow for one or two open spaces for wheelchair users when necessary. These units are more easily adapted than removable seats which generally require the seat to be removed in advance by the facility management.*

Either a sign or a marker placed on seating with removable or folding arm rests is required by this section. Consideration should be given for ensuring identification of such seats in a darkened theater. For example, a marker which contrasts (light on dark or dark on light) and which also reflects light could be placed on the side of such seating so as to be visible in a lighted auditorium and also to reflect light from a flashlight.

A4.1.6 Accessible Buildings: Alterations.

A4.1.6(1)(h) *When an entrance is being altered, it is preferable that those entrances being altered be made accessible to the extent feasible.*

A4.2 Space Allowances and Reach Ranges.

A4.2.1 Wheelchair Passage Width.

(1) **Space Requirements for Wheelchairs.** Many persons who use wheelchairs need a 30 in (760 mm) clear opening width for doorways, gates, and the like, when the latter are entered head-on. If the person is unfamiliar with a building, if competing traffic is heavy, if sudden or frequent movements are needed, or if the wheelchair must be turned at an opening, then greater clear widths are needed. For most situations, the addition of an inch of leeway on either side is sufficient. Thus, a minimum clear width of 32 in (815 mm) will provide adequate clearance. However, when an opening or a restriction in a passageway is more than 24 in (610 mm) long, it is essentially a passageway and must be at least 36 in (915 mm) wide.

(2) **Space Requirements for Use of Walking Aids.** Although people who use walking aids can maneuver through clear width openings of 32 in (815 mm), they need 36 in (915 mm) wide passageways and walks for comfortable gaits. Crutch tips, often extending down at a wide angle, are a hazard in narrow passageways where they might not be seen by other pedestrians. Thus, the 36 in (915 mm) width provides a safety allowance both for the person with a disability and for others.

(3) **Space Requirements for Passing.** Able-bodied persons in winter clothing, walking

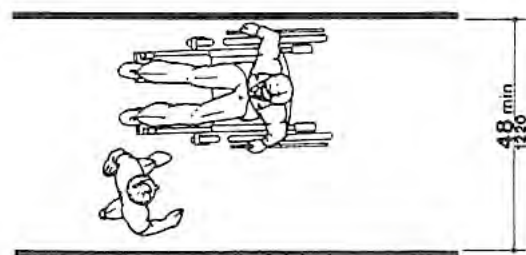
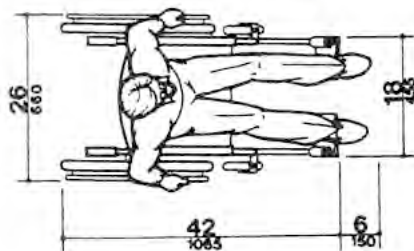
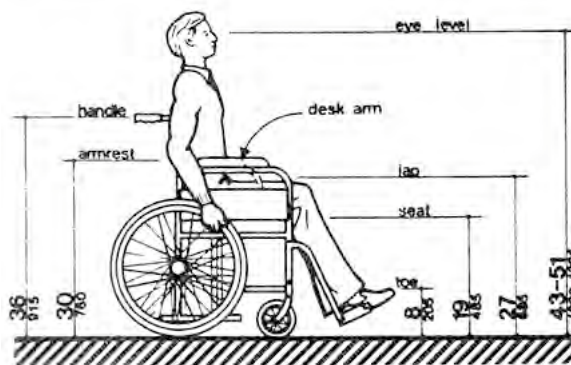
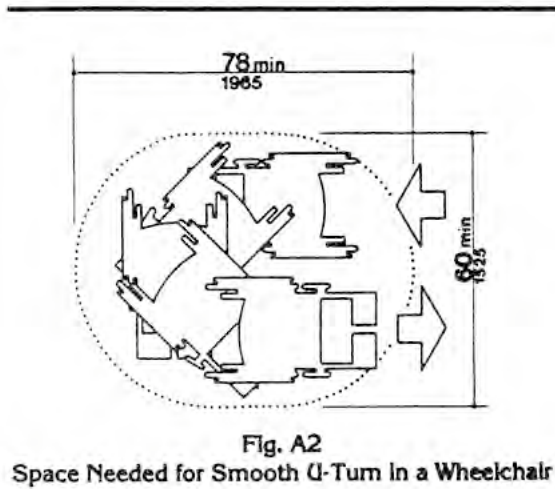


Fig. A1
Minimum Passage Width for One Wheelchair
and One Ambulatory Person

A4.2 Space Allowances and Reach Ranges



NOTE: Footrests may extend further for tall people

Fig. A3
Dimensions of Adult-Sized Wheelchairs

straight ahead with arms swinging, need 32 in (815 mm) of width, which includes 2 in (50 mm) on either side for sway, and another 1 in (25 mm) tolerance on either side for clearing nearby objects or other pedestrians. Almost all wheelchair users and those who use walking aids can also manage within this 32 in (815 mm) width for short distances. Thus, two streams of traffic can pass in 64 in (1625 mm) in a comfortable flow. Sixty inches (1525 mm) provides a minimum width for a somewhat more restricted flow. If the clear width is less than 60 in (1525 mm), two wheelchair users will not be able to pass but will have to seek a wider place for passing. Forty-eight inches (1220 mm) is the minimum width needed for an ambulatory person to pass a nonambulatory or semi-ambulatory person. Within this 48 in (1220 mm) width, the ambulatory person will have to twist to pass a wheelchair user, a person with a service animal, or a

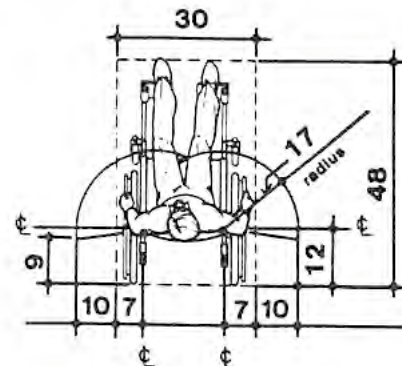
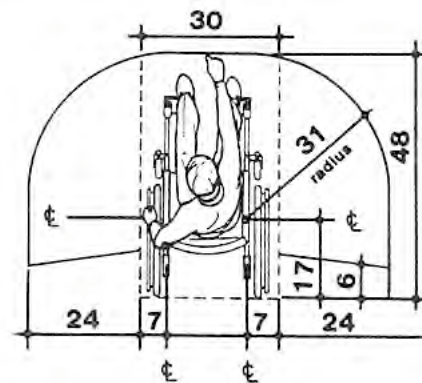


Fig. A3 (a)

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A4.3 Accessible Route

semi-ambulatory person. There will be little leeway for swaying or missteps (see Fig. A1).

A4.2.3 Wheelchair Turning Space.

These guidelines specify a minimum space of 60 in (1525 mm) diameter or a 60 in by 60 in (1525 mm by 1525 mm) T-shaped space for a pivoting 180-degree turn of a wheelchair. This space is usually satisfactory for turning around, but many people will not be able to turn without repeated tries and bumping into surrounding objects. The space shown in Fig. A2 will allow most wheelchair users to complete U-turns without difficulty.

A4.2.4 Clear Floor or Ground Space for Wheelchairs. The wheelchair and user shown in Fig. A3 represent typical dimensions for a large adult male. The space requirements in this *guideline* are based upon maneuvering clearances that will accommodate most wheelchairs. Fig. A3 provides a uniform reference for design not covered by this *guideline*.

A4.2.5 & A4.2.6 Reach. *Reach ranges for persons seated in wheelchairs may be further clarified by Fig. A3(a). These drawings approximate in the plan view the information shown in Fig. 4, 5, and 6.*

A4.3 Accessible Route.**A4.3.1 General.**

(1) **Travel Distances.** Many people with mobility impairments can move at only very slow speeds; for many, traveling 200 ft (61 m) could take about 2 minutes. This assumes a rate of about 1.5 ft/s (455 mm/s) on level ground. It also assumes that the traveler would move continuously. However, on trips over 100 ft (30 m), disabled people are apt to rest frequently, which substantially increases their trip times. Resting periods of 2 minutes for every 100 ft (30 m) can be used to estimate travel times for people with severely limited stamina. In inclement weather, slow progress and resting can greatly increase a disabled person's exposure to the elements.

(2) **Sites.** Level, indirect routes or those with running slopes lower than 1:20 can sometimes provide more convenience than direct routes with maximum allowable slopes or with ramps.

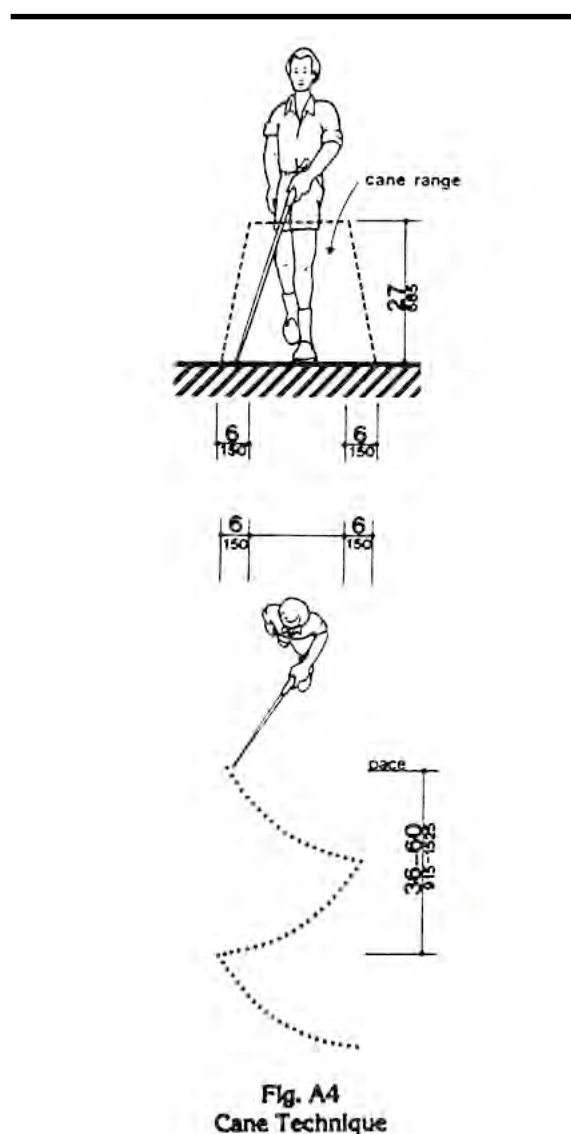


Fig. A4
Cane Technique

A4.3.10 Egress. Because people with disabilities may visit, be employed or be a resident in any building, emergency management plans with specific provisions to ensure their safe evacuation also play an essential role in fire safety and life safety.

A4.3.11.3 Stairway Width. A 48 in (1220 mm) wide exit stairway is needed to allow assisted evacuation (e.g., carrying a person in a wheelchair) without encroaching on the exit path for ambulatory persons.

A4.3.11.4 Two-way Communication. *It is essential that emergency communication not be dependent on voice communications alone because the safety of people with hearing or speech impairments could be jeopardized. The visible signal requirement could be satisfied with something as simple as a button in the area of rescue assistance that lights, indicating that help is on the way, when the message is answered at the point of entry.*

A4.4 Protruding Objects.

A4.4.1 General. *Service animals are trained to recognize and avoid hazards. However, most people with severe impairments of vision use the long cane as an aid to mobility. The two principal cane techniques are the touch technique, where the cane arcs from side to side and touches points outside both shoulders; and the diagonal technique, where the cane is held in a stationary position diagonally across the body with the cane tip touching or just above the ground at a point outside one shoulder and the handle or grip extending to a point outside the other shoulder. The touch technique is used primarily in uncontrolled areas, while the diagonal technique is used primarily in certain limited, controlled, and familiar environments. Cane users are often trained to use both techniques.*

Potential hazardous objects are noticed only if they fall within the detection range of canes (see Fig. A4). Visually impaired people walking toward an object can detect an overhang if its lowest surface is not higher than 27 in (685 mm). When walking alongside protruding objects, they cannot detect overhangs. Since proper cane and service animal techniques keep people away from the edge of a path or from walls, a slight overhang of no more than 4 in (100 mm) is not hazardous.

A4.5 Ground and Floor Surfaces.

A4.5.1 General. *People who have difficulty walking or maintaining balance or who use crutches, canes, or walkers, and those with restricted gaits are particularly sensitive to slipping and tripping hazards. For such people, a stable and regular surface is necessary for safe walking, particularly on stairs. Wheelchairs can be propelled most easily on surfaces that are hard, stable, and regular. Soft*

loose surfaces such as shag carpet, loose sand or gravel, wet clay, and irregular surfaces such as cobblestones can significantly impede wheelchair movement.

Slip resistance is based on the frictional force necessary to keep a shoe heel or crutch tip from slipping on a walking surface under conditions likely to be found on the surface. While the dynamic coefficient of friction during walking varies in a complex and non-uniform way, the static coefficient of friction, which can be measured in several ways, provides a close approximation of the slip resistance of a surface. Contrary to popular belief, some slippage is necessary to walking, especially for persons with restricted gaits; a truly "non-slip" surface could not be negotiated.

The Occupational Safety and Health Administration recommends that walking surfaces have a static coefficient of friction of 0.5. A research project sponsored by the Architectural and Transportation Barriers Compliance Board (Access Board) conducted tests with persons with disabilities and concluded that a higher coefficient of friction was needed by such persons. A static coefficient of friction of 0.6 is recommended for accessible routes and 0.8 for ramps.

It is recognized that the coefficient of friction varies considerably due to the presence of contaminants, water, floor finishes, and other factors not under the control of the designer or builder and not subject to design and construction guidelines and that compliance would be difficult to measure on the building site. Nevertheless, many common building materials suitable for flooring are now labeled with information on the static coefficient of friction. While it may not be possible to compare one product directly with another, or to guarantee a constant measure, builders and designers are encouraged to specify materials with appropriate values. As more products include information on slip resistance, improved uniformity in measurement and specification is likely. The Access Board's advisory guidelines on Slip Resistant Surfaces provides additional information on this subject.

Cross slopes on walks and ground or floor surfaces can cause considerable difficulty in propelling a wheelchair in a straight line.

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A4.6 Parking and Passenger Loading Zones

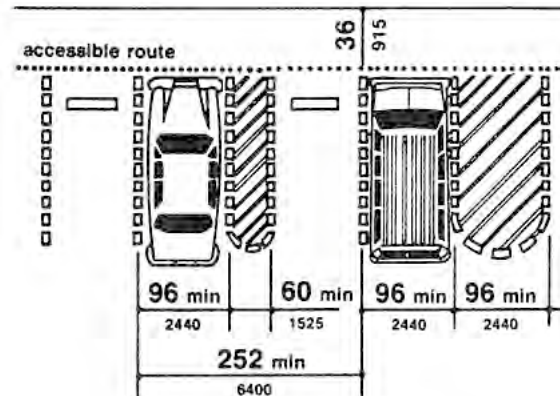
A4.5.3 Carpet. Much more needs to be done in developing both quantitative and qualitative criteria for carpeting (*i.e., problems associated with texture and weave need to be studied*). However, certain functional characteristics are well established. When both carpet and padding are used, it is desirable to have minimum movement (preferably none) between the floor and the pad and the pad and the carpet which would allow the carpet to hump or warp. In heavily trafficked areas, a thick, soft (plush) pad or cushion, particularly in combination with long carpet pile, makes it difficult for individuals in wheelchairs and those with other ambulatory disabilities to get about. Firm carpeting can be achieved through proper selection and combination of pad and carpet, sometimes with the elimination of the pad or cushion, and with proper installation. *Carpeting designed with a weave that causes a zig-zag effect when wheeled across is strongly discouraged.*

A4.6 Parking and Passenger Loading Zones.

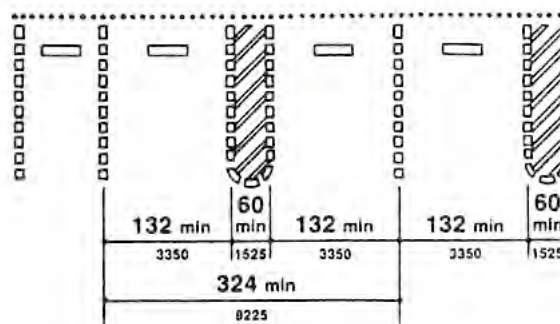
A4.6.3 Parking Spaces. *The increasing use of vans with side-mounted lifts or ramps by persons with disabilities has necessitated some revisions in specifications for parking spaces and adjacent access aisles. The typical accessible parking space is 96 in (2440 mm) wide with an adjacent 60 in (1525 mm) access aisle. However, this aisle does not permit lifts or ramps to be deployed and still leave room for a person using a wheelchair or other mobility aid to exit the lift platform or ramp. In tests conducted with actual lift/van/wheelchair combinations, (under a Board-sponsored Accessible Parking and Loading Zones Project) researchers found that a space and aisle totaling almost 204 in (5180 mm) wide was needed to deploy a lift and exit conveniently. The "van accessible" parking space required by these guidelines provides a 96 in (2440 mm) wide space with a 96 in (2440 mm) adjacent access aisle which is just wide enough to maneuver and exit from a side mounted lift. If a 96 in (2440 mm) access aisle is placed between two spaces, two "van accessible" spaces are created. Alternatively, if the wide access aisle is provided at the end of a row (an area often unused), it may be possible to provide the wide access aisle without additional space (see Fig A5(a)).*

A sign is needed to alert van users to the presence of the wider aisle, but the space is not intended to be restricted only to vans.

"Universal" Parking Space Design. *An alternative to the provision of a percentage of spaces with a wide aisle, and the associated need to include additional signage, is the use of what has been called the "universal" parking space design. Under this design, all accessible spaces are 132 in (3350 mm) wide with a 60 in (1525 mm) access aisle (see Fig. A5(b)). One advantage to this design is that*



(a)
Van Accessible Space at End Row



(b)
Universal Parking Space Design

Fig. A5
Parking Space Alternatives

no additional signage is needed because all spaces can accommodate a van with a side-mounted lift or ramp. Also, there is no competition between cars and vans for spaces since all spaces can accommodate either. Furthermore, the wider space permits vehicles to park to one side or the other within the 132 in (3350 mm) space to allow persons to exit and enter the vehicle on either the driver or passenger side, although, in some cases, this would require exiting or entering without a marked access aisle.

An essential consideration for any design is having the access aisle level with the parking space. Since a person with a disability, using a lift or ramp, must maneuver within the access aisle, the aisle cannot include a ramp or sloped area. The access aisle must be connected to an accessible route to the appropriate accessible entrance of a building or facility. The parking access aisle must either blend with the accessible route or have a curb ramp complying with 4.7. Such a curb ramp opening must be located within the access aisle boundaries, not within the parking space boundaries. Unfortunately, many facilities are designed with a ramp that is blocked when any vehicle parks in the accessible space. Also, the required dimensions of the access aisle cannot be restricted by planters, curbs or wheel stops.

A4.6.4 Signage. Signs designating parking places for disabled people can be seen from a driver's seat if the signs are mounted high enough above the ground and located at the front of a parking space.

A4.6.5 Vertical Clearance. High-top vans, which disabled people or transportation services often use, require higher clearances in parking garages than automobiles.

A4.8 Ramps.

A4.8.1 General. Ramps are essential for wheelchair users if elevators or lifts are not available to connect different levels. However, some people who use walking aids have difficulty with ramps and prefer stairs.

A4.8.2 Slope and Rise. *Ramp slopes between 1:16 and 1:20 are preferred.* The ability to manage an incline is related to both its slope and its length. Wheelchair users with

disabilities affecting their arms or with low stamina have serious difficulty using inclines. Most ambulatory people and most people who use wheelchairs can manage a slope of 1:16. Many people cannot manage a slope of 1:12 for 30 ft (9 m).

A4.8.4 Landings. *Level landings are essential toward maintaining an aggregate slope that complies with these guidelines. A ramp landing that is not level causes individuals using wheelchairs to tip backward or bottom out when the ramp is approached.*

A4.8.5 Handrails. The requirements for stair and ramp handrails in this guideline are for adults. When children are principal users in a building or facility, a second set of handrails at an appropriate height can assist them and aid in preventing accidents.

A4.9 Stairs.

A4.9.1 Minimum Number. *Only interior and exterior stairs connecting levels that are not connected by an elevator, ramp, or other accessible means of vertical access have to comply with 4.9.*

A4.10 Elevators.

A4.10.6 Door Protective and Reopening Device. The required door reopening device would hold the door open for 20 seconds if the doorway remains obstructed. After 20 seconds, the door may begin to close. However, if designed in accordance with ASME A17.1-1990, the door closing movement could still be stopped if a person or object exerts sufficient force at any point on the door edge.

A4.10.7 Door and Signal Timing for Hall Calls. This paragraph allows variation in the location of call buttons, advance time for warning signals, and the door-holding period used to meet the time requirement.

A4.10.12 Car Controls. Industry-wide standardization of elevator control panel design would make all elevators significantly more convenient for use by people with severe visual impairments. In many cases, it will be possible to locate the highest control on elevator panels within 48 in (1220 mm) from the floor.

A4.11 Platform Lifts (Wheelchair Lifts)

A4.10.13 Car Position Indicators. A special button may be provided that would activate the audible signal within the given elevator only for the desired trip, rather than maintaining the audible signal in constant operation.

A4.10.14 Emergency Communications. A device that requires no handset is easier to use by people who have difficulty reaching. *Also, small handles on handset compartment doors are not usable by people who have difficulty grasping.*

Ideally, emergency two-way communication systems should provide both voice and visual display intercommunication so that persons with hearing impairments and persons with vision impairments can receive information regarding the status of a rescue. A voice intercommunication system cannot be the only means of communication because it is not accessible to people with speech and hearing impairments. While a voice intercommunication system is not required, at a minimum, the system should provide both an audio and visual indication that a rescue is on the way.

A4.11 Platform Lifts (Wheelchair Lifts).

A4.11.2 Other Requirements. *Inclined stairway chairlifts, and inclined and vertical platform lifts (wheelchair lifts) are available for short-distance, vertical transportation of people with disabilities. Care should be taken in selecting lifts as some lifts are not equally suitable for use by both wheelchair users and semi-ambulatory individuals.*

A4.12 Windows.

A4.12.1 General. *Windows intended to be operated by occupants in accessible spaces should comply with 4.12.*

A4.12.2 Window Hardware. *Windows requiring pushing, pulling or lifting to open (for example, double-hung sliding or casement and awning units without cranks) should require no more than 5 lbf (22.2 N) to open or close. Locks, cranks, and other window hardware should comply with 4.27.*

A4.13 Doors.

A4.13.8 Thresholds at Doorways. Thresholds and surface height changes in doorways are particularly inconvenient for wheelchair users who also have low stamina or restrictions in arm movement because complex maneuvering is required to get over the level change while operating the door.

A4.13.9 Door Hardware. Some disabled persons must push against a door with their chair or walker to open it. Applied kickplates on doors with closers can reduce required maintenance by withstanding abuse from wheelchairs and canes. To be effective, they should cover the door width, less approximately 2 in (51 mm), up to a height of 16 in (405 mm) from its bottom edge and be centered across the width of the door.

A4.13.10 Door Closers. Closers with delayed action features give a person more time to maneuver through doorways. They are particularly useful on frequently used interior doors such as entrances to toilet rooms.

A4.13.11 Door Opening Force. Although most people with disabilities can exert at least 5 lbf (22.2N), both pushing and pulling from a stationary position, a few people with severe disabilities cannot exert 3 lbf (13.13N). Although some people cannot manage the allowable forces in this guideline and many others have difficulty, door closers must have certain minimum closing forces to close doors satisfactorily. Forces for pushing or pulling doors open are measured with a push-pull scale under the following conditions:

(1) Hinged doors: Force applied perpendicular to the door at the door opener or 30 in (760 mm) from the hinged side, whichever is farther from the hinge.

(2) Sliding or folding doors: Force applied parallel to the door at the door pull or latch.

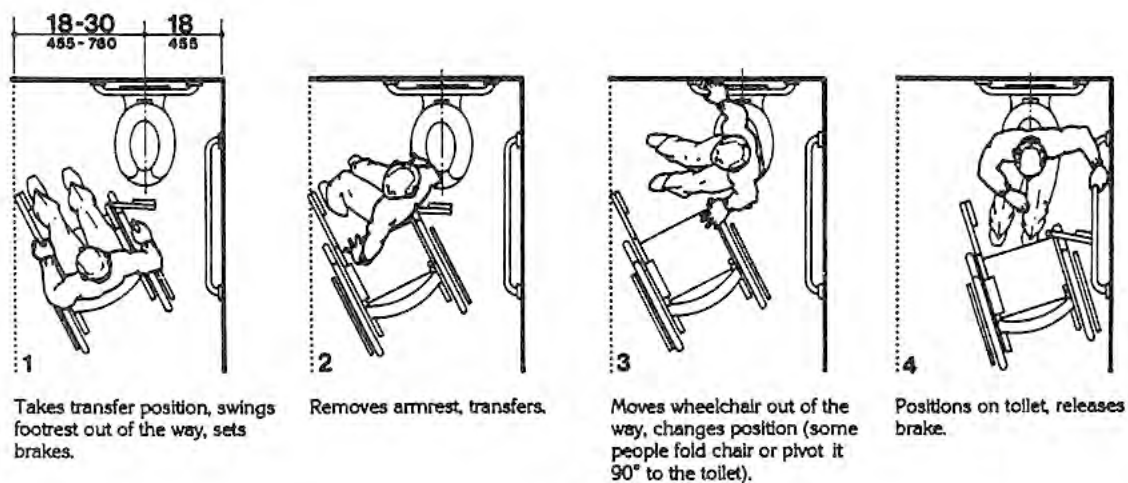
(3) Application of force: Apply force gradually so that the applied force does not exceed the resistance of the door. In high-rise buildings, air-pressure differentials may require a modification of this specification in order to meet the functional intent.

A4.15 Drinking Fountains and Water Coolers

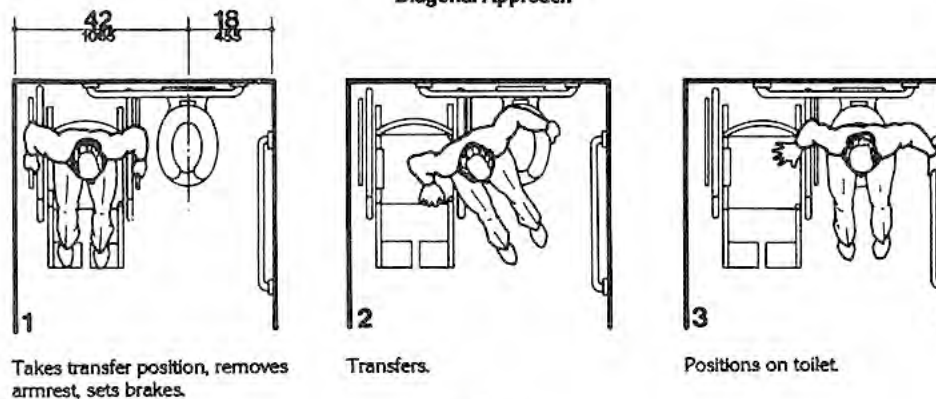
A4.13.12 Automatic Doors and Power-Assisted Doors. Sliding automatic doors do not need guard rails and are more convenient for wheelchair users and visually impaired people to use. If slowly opening automatic doors can be reactivated before their closing cycle is completed, they will be more convenient in busy doorways.

A4.15 Drinking Fountains and Water Coolers.

A4.15.2 Spout Height. Two drinking fountains, mounted side by side or on a single post, are usable by people with disabilities and people who find it difficult to bend over.



(a)
Diagonal Approach



(b)
Side Approach

Fig. A6
Wheelchair Transfers

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A4.16 Water Closets

A4.16 Water Closets.

A4.16.3 Height. Height preferences for toilet seats vary considerably among disabled people. Higher seat heights may be an advantage to some ambulatory disabled people, but are often a disadvantage for wheelchair users and others. Toilet seats 18 in (455 mm) high seem to be a reasonable compromise. Thick seats and filler rings are available to adapt standard fixtures to these requirements.

A4.16.4 Grab Bars. Fig. A6(a) and (b) show the diagonal and side approaches most commonly used to transfer from a wheelchair to a water closet. Some wheelchair users can transfer from the front of the toilet while others use a 90-degree approach. Most people who use the two additional approaches can also use either the diagonal approach or the side approach.

A4.16.5 Flush Controls. Flush valves and related plumbing can be located behind walls or to the side of the toilet, or a toilet seat lid can be provided if plumbing fittings are directly behind the toilet seat. Such designs reduce the chance of injury and imbalance caused by leaning back against the fittings. Flush controls for tank-type toilets have a standardized mounting location on the left side of the tank (facing the tank). Tanks can be obtained by special order with controls mounted on the right side. If administrative authorities require flush controls for flush valves to be located in a position that conflicts with the location of the rear grab bar, then that bar may be split or shifted toward the wide side of the toilet area.

A4.17 Toilet Stalls.

A4.17.3 Size and Arrangement. *This section requires use of the 60 in (1525 mm) standard stall (Figure 30(a)) and permits the 36 in (915 mm) or 48 in (1220 mm) wide alternate stall (Figure 30(b)) only in alterations where provision of the standard stall is technically infeasible or where local plumbing codes prohibit reduction in the number of fixtures. A standard stall provides a clear space on one side of the water closet to enable persons who use wheelchairs to perform a side or diagonal transfer from the wheelchair to the water closet. However, some persons with disabilities who use mobility aids such as walkers, canes or crutches are better able*

to use the two parallel grab bars in the 36 in (915 mm) wide alternate stall to achieve a standing position.

In large toilet rooms, where six or more toilet stalls are provided, it is therefore required that a 36 in (915 mm) wide stall with parallel grab bars be provided in addition to the standard stall required in new construction. The 36 in (915 mm) width is necessary to achieve proper use of the grab bars; wider stalls would position the grab bars too far apart to be easily used and narrower stalls would position the grab bars too close to the water closet. Since the stall is primarily intended for use by persons using canes, crutches and walkers, rather than wheelchairs, the length of the stall could be conventional. The door, however, must swing outward to ensure a usable space for people who use crutches or walkers.

A4.17.5 Doors. To make it easier for wheelchair users to close toilet stall doors, doors can be provided with closers, spring hinges, or a pull bar mounted on the inside surface of the door near the hinge side.

A4.19 Lavatories and Mirrors.

A4.19.6 Mirrors. If mirrors are to be used by both ambulatory people and wheelchair users, then they must be at least 74 in (1880 mm) high at their topmost edge. A single full length mirror can accommodate all people, including children.

A4.21 Shower Stalls.

A4.21.1 General. Shower stalls that are 36 in by 36 in (915 mm by 915 mm) wide provide additional safety to people who have difficulty maintaining balance because all grab bars and walls are within easy reach. Seated people use the walls of 36 in by 36 in (915 mm by 915 mm) showers for back support. Shower stalls that are 60 in (1525 mm) wide and have no curb may increase usability of a bathroom by wheelchair users because the shower area provides additional maneuvering space.

A4.22 Toilet Rooms.

A4.22.3 Clear Floor Space. *In many small facilities, single-user restrooms may be the only facilities provided for all building users.*

In addition, the guidelines allow the use of "unisex" or "family" accessible toilet rooms in alterations when technical infeasibility can be demonstrated. Experience has shown that the provision of accessible "unisex" or single-user restrooms is a reasonable way to provide access for wheelchair users and any attendants, especially when attendants are of the opposite sex. Since these facilities have proven so useful, it is often considered advantageous to install a "unisex" toilet room in new facilities in addition to making the multi-stall restrooms accessible, especially in shopping malls, large auditoriums, and convention centers.

Figure 28 (section 4.16) provides minimum clear floor space dimensions for toilets in accessible "unisex" toilet rooms. The dotted lines designate the minimum clear floor space, depending on the direction of approach, required for wheelchair users to transfer onto the water closet. The dimensions of 48 in (1220 mm) and 60 in (1525 mm), respectively, correspond to the space required for the two common transfer approaches utilized by wheelchair users (see Fig. A6). It is important to keep in mind that the placement of the lavatory to the immediate side of the water closet will preclude the side approach transfer illustrated in Figure A6(b).

To accommodate the side transfer, the space adjacent to the water closet must remain clear of obstruction for 42 in (1065 mm) from the centerline of the toilet (Figure 28) and the lavatory must not be located within this clear space. A turning circle or T-turn, the clear floor space at the lavatory, and maneuvering space at the door must be considered when determining the possible wall locations. A privacy latch or other accessible means of ensuring privacy during use should be provided at the door.

RECOMMENDATIONS:

1. In new construction, accessible single-user restrooms may be desirable in some situations because they can accommodate a wide variety of building users. However, they cannot be used in lieu of making the multi-stall toilet rooms accessible as required.

2. Where strict compliance to the guidelines for accessible toilet facilities is technically infeasible in the alteration of existing facilities, accessible "unisex" toilets are a reasonable alternative.

3. In designing accessible single-user restrooms, the provisions of adequate space to allow a side transfer will provide accommodation to the largest number of wheelchair users.

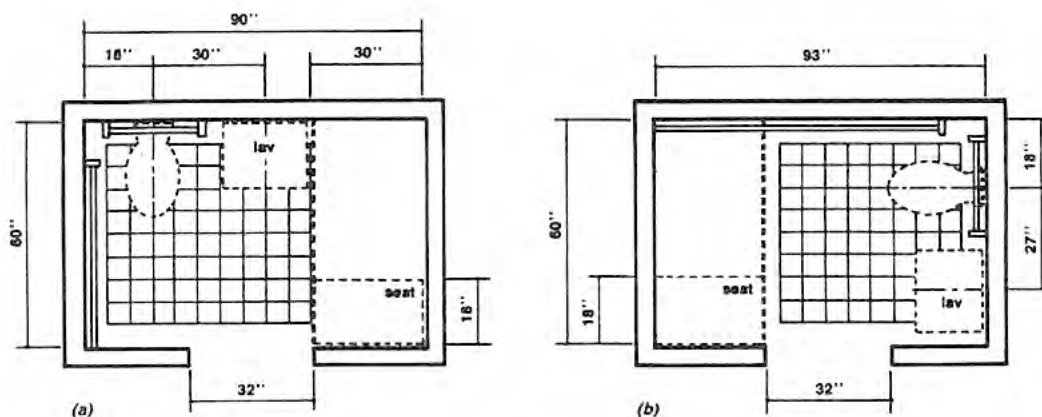


Fig. A7

A4.23 Bathrooms, Bathing Facilities, and Shower Rooms

A4.23 Bathrooms, Bathing Facilities, and Shower Rooms.

A4.23.3 Clear Floor Space. Figure A7 shows two possible configurations of a toilet room with a roll-in shower. The specific shower shown is designed to fit exactly within the dimensions of a standard bathtub. Since the shower does not have a lip, the floor space can be used for required maneuvering space. This would permit a toilet room to be smaller than would be permitted with a bathtub and still provide enough floor space to be considered accessible. This design can provide accessibility in facilities where space is at a premium (i.e., hotels and medical care facilities). The alternate roll-in shower (Fig. 57b) also provides sufficient room for the "T-turn" and does not require plumbing to be on more than one wall.

A4.23.9 Medicine Cabinets. Other alternatives for storing medical and personal care items are very useful to disabled people. Shelves, drawers, and floor-mounted cabinets can be provided within the reach ranges of disabled people.

A4.26 Handrails, Grab Bars, and Tub and Shower Seats.

A4.26.1 General. Many disabled people rely heavily upon grab bars and handrails to maintain balance and prevent serious falls. Many people brace their forearms between supports and walls to give them more leverage and stability in maintaining balance or for lifting. The grab bar clearance of 1-1/2 in (38 mm) required in this guideline is a safety clearance to prevent injuries resulting from arms slipping through the openings. It also provides adequate gripping room.

A4.26.2 Size and Spacing of Grab Bars and Handrails. This specification allows for alternate shapes of handrails as long as they allow an opposing grip similar to that provided by a circular section of 1-1/4 in to 1-1/2 in (32 mm to 38 mm).

A4.27 Controls and Operating Mechanisms.

A4.27.3 Height. Fig A8 further illustrates

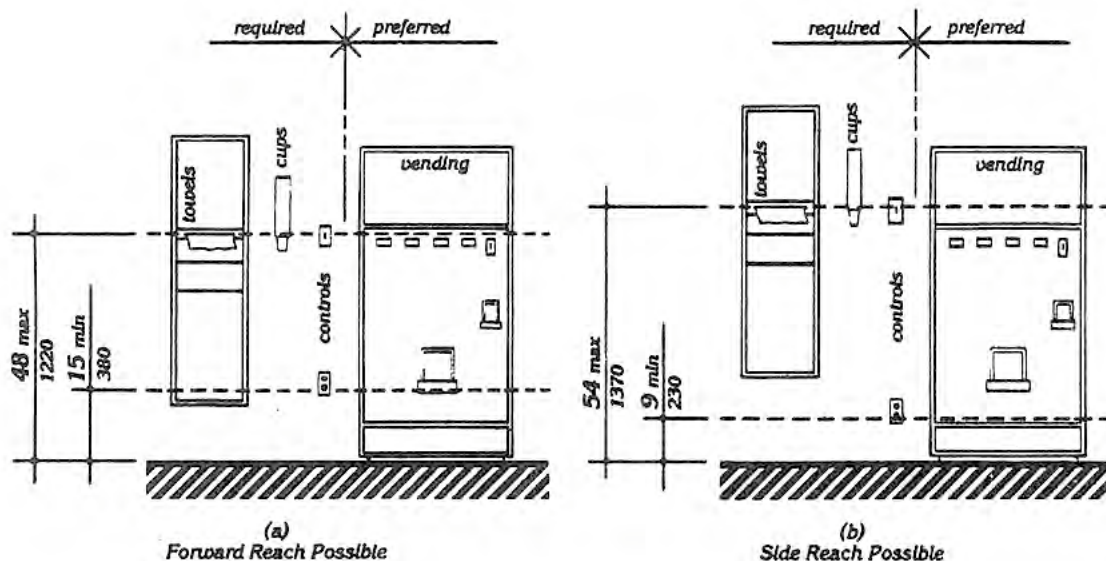


Fig. A8
Control Reach Limitations

mandatory and advisory control mounting height provisions for typical equipment.

Electrical receptacles installed to serve individual appliances and not intended for regular or frequent use by building occupants are not required to be mounted within the specified reach ranges. Examples would be receptacles installed specifically for wall-mounted clocks, refrigerators, and microwave ovens.

A4.28 Alarms.

A4.28.2 Audible Alarms. Audible emergency signals must have an intensity and frequency that can attract the attention of individuals who have partial hearing loss. People over 60 years of age generally have difficulty perceiving frequencies higher than 10,000 Hz. *An alarm signal which has a periodic element to its signal, such as single stroke bells (clang-pause-clang-pause), hi-low (up-down-up-down) and fast whoop (on-off-on-off) are best. Avoid continuous or reverberating tones. Select a signal which has a sound characterized by three or four clear tones without a great deal of "noise" in between.*

A4.28.3 Visual Alarms. The specifications in this section do not preclude the use of zoned or coded alarm systems.

A4.28.4 Auxiliary Alarms. Locating visual emergency alarms in rooms where persons who are deaf may work or reside alone can ensure that they will always be warned when an emergency alarm is activated. To be effective, such devices must be located and oriented so that they will spread signals and reflections throughout a space or raise the overall light level sharply. *However, visual alarms alone are not necessarily the best means to alert sleepers. A study conducted by Underwriters Laboratory (UL) concluded that a flashing light more than seven times brighter was required (110 candela v. 15 candela, at the same distance) to awaken sleepers as was needed to alert awake subjects in a normal daytime illuminated room.*

For hotel and other rooms where people are likely to be asleep, a signal-activated vibrator placed between mattress and box spring or under a pillow was found by UL to be much more effective in alerting sleepers. Many readily available devices are sound-activated

so that they could respond to an alarm clock, clock radio, wake-up telephone call or room smoke detector. Activation by a building alarm system can either be accomplished by a separate circuit activating an auditory alarm which would, in turn, trigger the vibrator or by a signal transmitted through the ordinary 110-volt outlet. Transmission of signals through the power line is relatively simple and is the basis of common, inexpensive remote light control systems sold in many department and electronic stores for home use. So-called "wireless" intercoms operate on the same principal.

A4.29 Detectable Warnings.

A4.29.2 Detectable Warnings on Walking Surfaces. *The material used to provide contrast should contrast by at least 70%. Contrast in percent is determined by:*

$$\text{Contrast} = [(B1 - B2)/B1] \times 100$$

where B1 = light reflectance value (LRV) of the lighter area and B2 = light reflectance value (LRV) of the darker area.

Note that in any application both white and black are never absolute; thus, B1 never equals 100 and B2 is always greater than 0.

A4.30 Signage.

A4.30.1 General. In building complexes where finding locations independently on a routine basis may be a necessity (for example, college campuses), tactile maps or prerecorded instructions can be very helpful to visually impaired people. Several maps and auditory instructions have been developed and tested for specific applications. The type of map or instructions used must be based on the information to be communicated, which depends highly on the type of buildings or users.

Landmarks that can easily be distinguished by visually impaired individuals are useful as orientation cues. Such cues include changes in illumination level, bright colors, unique patterns, wall murals, location of special equipment or other architectural features.

Many people with disabilities have limitations in movement of their heads and reduced peripheral vision. Thus, signage positioned

A4.30 Signage

perpendicular to the path of travel is easiest for them to notice. People can generally distinguish signage within an angle of 30 degrees to either side of the centerlines of their faces without moving their heads.

A4.30.2 Character Proportion. The legibility of printed characters is a function of the viewing distance, character height, the ratio of the stroke width to the height of the character, the contrast of color between character and background, and print font. The size of characters must be based upon the intended viewing distance. A severely nearsighted person may have to be much closer to recognize a character of a given size than a person with normal visual acuity.

A4.30.4 Raised and Brailled Characters and Pictorial Symbol Signs (Pictograms). The standard dimensions for literary Braille are as follows:

<i>Dot diameter</i>	<i>.059 in.</i>
<i>Inter-dot spacing</i>	<i>.090 in.</i>
<i>Horizontal separation between cells</i>	<i>.241 in.</i>
<i>Vertical separation between cells</i>	<i>.395 in.</i>

Raised borders around signs containing raised characters may make them confusing to read unless the border is set far away from the characters. Accessible signage with descriptive materials about public buildings, monuments, and objects of cultural interest may not provide sufficiently detailed and meaningful information. Interpretive guides, audio tape devices, or other methods may be more effective in presenting such information.

A4.30.5 Finish and Contrast. An eggshell finish (11 to 19 degree gloss on 60 degree glossimeter) is recommended. Research indicates that signs are more legible for persons with low vision when characters contrast with their background by at least 70 percent. Contrast in percent shall be determined by:

$$\text{Contrast} = [(B1 - B2)/B1] \times 100$$

where *B1* = light reflectance value (LRV) of the lighter area and *B2* = light reflectance value (LRV) of the darker area.

Note that in any application both white and black are never absolute; thus, *B1* never equals 100 and *B2* is always greater than 0.

The greatest readability is usually achieved through the use of light-colored characters or symbols on a dark background.

A4.30.7 Symbols of Accessibility for Different Types of Listening Systems. Paragraph 4 of this section requires signage indicating the availability of an assistive listening system. An appropriate message should be displayed with the international symbol of access for hearing loss since this symbol conveys general accessibility for people with hearing loss. Some suggestions are:

INFRARED
ASSISTIVE LISTENING SYSTEM
AVAILABLE
---PLEASE ASK---

AUDIO LOOP IN USE
TURN T-SWITCH FOR
BETTER HEARING
---OR ASK FOR HELP---

FM
ASSISTIVE LISTENING
SYSTEM AVAILABLE
---PLEASE ASK---

The symbol may be used to notify persons of the availability of other auxiliary aids and services such as: real time captioning, captioned note taking, sign language interpreters, and oral interpreters.

A4.30.8 Illumination Levels. Illumination levels on the sign surface shall be in the 100 to 300 lux range (10 to 30 footcandles) and shall be uniform over the sign surface. Signs shall be located such that the illumination level on the surface of the sign is not significantly exceeded by the ambient light or visible bright lighting source behind or in front of the sign.

A4.31 Telephones.

A4.31.3 Mounting Height. In localities where the dial-tone first system is in operation, calls can be placed at a coin telephone through the operator without inserting coins. The operator button is located at a height of 46 in (1170 mm) if the coin slot of the telephone is at 54 in (1370 mm). A generally available public telephone with a coin slot mounted lower on the equipment would allow universal installation of telephones at a height of 48 in (1220 mm) or less to all operable parts.

A4.31.9 Text Telephones. *A public text telephone may be an integrated text telephone pay phone unit or a conventional portable text telephone that is permanently affixed within, or adjacent to, the telephone enclosure. In order to be usable with a pay phone, a text telephone which is not a single integrated text telephone pay phone unit will require a shelf large enough (10 in (255mm) wide by 10 in (255 mm) deep with a 6 in (150 mm) vertical clearance minimum) to accommodate the device, an electrical outlet, and a power cord. Movable or portable text telephones may be used to provide equivalent facilitation. A text telephone should be readily available so that a person using it may access the text telephone easily and conveniently. As currently designed pocket-type text telephones for personal use do not accommodate a wide range of users. Such devices would not be considered substantially equivalent to conventional text telephones. However, in the future as technology develops this could change.*

A4.32 Fixed or Built-in Seating and Tables.

A4.32.4 Height of Tables or Counters. Different types of work require different table or counter heights for comfort and optimal performance. Light detailed work such as writing requires a table or counter close to elbow height for a standing person. Heavy manual work such as rolling dough requires a counter or table height about 10 in (255 mm) below elbow height for a standing person. This principle of high/low table or counter heights also applies for seated persons; however, the limiting condition for seated manual work is clearance under the table or counter.

Table A1 shows convenient counter heights for seated persons. The great variety of heights for comfort and optimal performance indicates a need for alternatives or a compromise in height if people who stand and people who sit will be using the same counter area.

Table A1
Convenient Heights of Tables
and Counters for Seated People¹

Conditions of Use	Short Women in mm	Tall Men in mm
Seated in a wheelchair:		
Manual work-		
Desk or removable armrests	26 660	30 760
Fixed, full-size armrests ²	32 ³ 815	32 ³ 815
Light, detailed work:		
Desk or removable armrests	29 735	34 865
Fixed, full-size armrests ²	32 ³ 815	34 865
Seated in a 16 in (405 mm) high chair:		
Manual work	26 660	27 685
Light, detailed work	28 710	31 785

¹All dimensions are based on a work-surface thickness of 1 1/2 in (38 mm) and a clearance of 1 1/2 in (38 mm) between legs and the underside of a work surface.

²This type of wheelchair arm does not interfere with the positioning of a wheelchair under a work surface.

³This dimension is limited by the height of the armrests: a lower height would be preferable. Some people in this group prefer lower work surfaces, which require positioning the wheelchair back from the edge of the counter.

A4.33 Assembly Areas.

A4.33.2 Size of Wheelchair Locations. Spaces large enough for two wheelchairs allow people who are coming to a performance together to sit together.

A4.33.3 Placement of Wheelchair Locations. The location of wheelchair areas can be planned so that a variety of positions

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Table A2. Summary of Assistive Listening Devices

within the seating area are provided. This will allow choice in viewing and price categories.

Building/life safety codes set minimum distances between rows of fixed seats with consideration of the number of seats in a row, the exit aisle width and arrangement, and the location of exit doors. "Continental" seating with a greater number of seats per row and a

commensurate increase in row spacing and exit doors, facilitates emergency egress for all people and increases ease of access to mid-row seats especially for people who walk with difficulty. Consideration of this positive attribute of "continental" seating should be included along with all other factors in the design of fixed seating areas.

Table A2. Summary of Assistive Listening Devices

System	Advantages	Disadvantages	Typical Applications
Induction Loop Transmitter: Transducer wired to induction loop around listening area. Receiver: Self-contained induction receiver or personal hearing aid with telecoil.	Cost-Effective Low Maintenance Easy to use Unobtrusive May be possible to integrate into existing public address system. Some hearing aids can function as receivers.	Signal spills over to adjacent rooms. Susceptible to electrical interference. Limited portability Inconsistent signal strength Head position affects signal strength. Lack of standards for induction coil performance.	Meeting areas Theaters Churches and Temples Conference rooms Classrooms TV viewing
FM Transmitter: Flashlight-sized worn by speaker. Receiver: With personal hearing aid via DAI or induction neck-loop and telecoil; or self-contained with earphone(s).	Highly portable Different channels allow use by different groups within the same room. High user mobility Variable for large range of hearing losses.	High cost of receivers Equipment fragile Equipment obtrusive High maintenance Expensive to maintain Custom fitting to individual user may be required.	Classrooms Tour groups Meeting areas Outdoor events One-on-one
Infrared Transmitter: Emitter in line-of-sight with receiver. Receiver: Self-contained. Or with personal hearing aid via DAI or induction neckloop and telecoil.	Easy to use Insures privacy or confidentiality Moderate cost Can often be integrated into existing public address system.	Line-of-sight required between emitter and receiver. Ineffective outdoors Limited portability Requires installation	Theaters Churches and Temples Auditoriums Meetings requiring confidentiality TV viewing

Source: Rehab Brief, National Institute on Disability and Rehabilitation Research, Washington, DC, Vol. XII, No. 10, (1990).

A4.33.6 Placement of Listening

Systems. A distance of 50 ft (15 m) allows a person to distinguish performers' facial expressions.

A4.33.7 Types of Listening Systems. *An assistive listening system appropriate for an assembly area for a group of persons or where the specific individuals are not known in advance, such as a playhouse, lecture hall or movie theater, may be different from the system appropriate for a particular individual provided as an auxiliary aid or as part of a reasonable accommodation. The appropriate device for an individual is the type that individual can use, whereas the appropriate system for an assembly area will necessarily be geared toward the "average" or aggregate needs of various individuals.* A listening system that can be used from any seat in a seating area is the most flexible way to meet this specification. Earphone jacks with variable volume controls can benefit only people who have slight hearing loss and do not help people who use hearing aids. At the present time, *magnetic induction* loops are the most feasible type of listening system for people who use hearing aids *equipped with "T-coils,"* but people without hearing aids or those with hearing aids not equipped with inductive pick-ups cannot use them *without special receivers.* Radio frequency systems can be extremely effective and inexpensive. People without hearing aids can use them, but people with hearing aids need a special receiver to use them as they are presently designed. If hearing aids had a jack to allow a by-pass of microphones, then radio frequency systems would be suitable for people with and without hearing aids. Some listening systems may be subject to interference from other equipment and feedback from hearing aids of people who are using the systems. Such interference can be controlled by careful engineering design that anticipates feedback sources in the surrounding area.

Table A2, reprinted from a National Institute of Disability and Rehabilitation Research "Rehab Brief," shows some of the advantages and disadvantages of different types of assistive listening systems. In addition, the Architectural and Transportation Barriers Compliance Board (Access Board) has published a pamphlet on Assistive Listening Systems which lists demonstration centers across the country where technical assistance can be obtained in selecting and installing appropriate systems. The state of

New York has also adopted a detailed technical specification which may be useful.

A5.0 Restaurants and Cafeterias.

A5.1 General. *Dining counters (where there is no service) are typically found in small carry-out restaurants, bakeries, or coffee shops and may only be a narrow eating surface attached to a wall. This section requires that where such a dining counter is provided, a portion of the counter shall be at the required accessible height.*

A7.0 Business and Mercantile.

A7.2(3) Assistive Listening Devices. *At all sales and service counters, teller windows, box offices, and information kiosks where a physical barrier separates service personnel and customers, it is recommended that at least one permanently installed assistive listening device complying with 4.33 be provided at each location or series. Where assistive listening devices are installed, signage should be provided identifying those stations which are so equipped.*

A7.3 Check-out Aisles. *Section 7.2 refers to counters without aisles; section 7.3 concerns check-out aisles. A counter without an aisle (7.2) can be approached from more than one direction such as in a convenience store. In order to use a check-out aisle (7.3), customers must enter a defined area (an aisle) at a particular point, pay for goods, and exit at a particular point.*

A10.3 Fixed Facilities and Stations

A10.3.1(7) Route Signs. *One means of making control buttons on fare vending machines usable by persons with vision impairments is to raise them above the surrounding surface. Those activated by a mechanical motion are likely to be more detectable. If farecard vending, collection, and adjustment devices are designed to accommodate farecards having one tactually distinctive corner, then a person who has a vision impairment will insert the card with greater ease. Token collection devices that are designed to accommodate tokens which are perforated can allow a person to distinguish more readily between tokens and common coins. Thoughtful placement of accessible gates and fare vending machines in relation to inaccessible devices will make their use and detection easier for all persons with disabilities.*

Exhibit 6

DEPARTMENT OF JUSTICE

Attorney General

28 CFR Part 42

Nondiscrimination Based on Handicap in Federally Assisted Programs—Implementation of Section 504 of the Rehabilitation Act of 1973 and Executive Order 11914

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This subpart establishes procedures and policies to assure nondiscrimination based on handicap in programs and activities receiving Federal financial assistance from the Department of Justice. The subpart is designed to comply with section 504 of the Rehabilitation Act of 1973 as amended, and Executive Order 11914, which relate to nondiscrimination against handicapped persons in programs receiving or benefitting from Federal financial assistance.

EFFECTIVE DATE: July 3, 1980.**FOR FURTHER INFORMATION CONTACT:**

(1) For Federal assistance programs administered by the Law Enforcement Assistance Administration (LEAA), the National Institute of Justice (NIJ), the Bureau of Justice Statistics (BJS), the Office of Justice Assistance, Research, and Statistics (OJARS), and the Office of Juvenile Justice and Delinquency Prevention (OJJDP): Thomas J. Madden, General Counsel, Office of Justice Assistance, Research, and Statistics, telephone: 202/724-7792.

(2) For other Department of Justice Federal assistance programs: Robert N. Dempsey, Federal Enforcement Section, Civil Rights Division, Telephone: (202) 633-2374.

SUPPLEMENTARY INFORMATION:**I. Background**

The Department of Justice hereby adds Subpart G to Part 42 of the Department regulations to implement section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as amended by section 111(a) of the Rehabilitation Act Amendments of 1974 (29 U.S.C. 706) (Supp. V 1975), and section 120(a) of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, Pub. L. 95-602, 92 Stat. 2955 (1978) (hereinafter the Rehabilitation Act Amendments of 1978), with regard to Federal financial assistance administered by this Department. Section 504 provides, in pertinent part, that "no otherwise qualified handicapped individual in the

United States * * * shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance * * *."

The subpart is intended to insure that the Department's federally assisted programs and activities are operated without discrimination on the basis of handicap. The subpart defines and forbids acts of discrimination against qualified handicapped persons in employment and in the operation of programs and activities receiving assistance from the Department. As employers, recipients are required to make reasonable accommodations to the handicaps of applicants and employees unless the accommodations would impose undue hardships on the operation of the recipients' programs. As providers of services, recipients are required (1) to make programs operating in existing facilities readily accessible to and usable by handicapped persons, (2) to insure that new facilities are constructed to be readily accessible to and usable by handicapped persons, and (3) to operate their programs in a manner which provides for the full and nondiscriminatory participation of eligible handicapped persons.

This rule is, in part, in response to Executive Order 11914 (41 FR 17871, April 28, 1976), which (1) delegates the coordination of government-wide enforcement of section 504 to the Department of Health, Education, and Welfare and (2) directs each Federal agency providing Federal financial assistance to "issue rules, regulations, and directives, consistent with the standards and procedures established by the Secretary of Health, Education and Welfare." The Secretary established such standards and procedures, effective January 13, 1978 (43 FR 2132, January 13, 1978) (hereinafter "guidelines"). The Department's rule is intended to be consistent with the HEW guidelines and the HEW section 504 rule (42 FR 22676 (May 4, 1977); 45 CFR 84.1 (1979)).

Executive Order 12044, 43 FR 12661 (March 24, 1978), whose objective is to improve government regulations, requires that "regulations shall be as simple and clear as possible." Following that standard, the subject departs, where appropriate, from the language (but not the substance) of the HEW section 504 rule where clarification appears desirable to give further guidance to applicants and recipients of Federal financial assistance administered by the Department.

Although the wording may differ, the Department intends no substantive difference between its language and the corresponding language of the HEW section 504 rule and guidelines.

Executive Order 12044 also requires Executive branch agencies to prepare Regulatory Analyses for regulations that may have major economic consequences. The Order defines major economic consequences as (1) an annual effect on the economy of \$100 million dollars or more (for example, compliance costs that exceed \$100 million dollars) or a stricter requirement if the agency head so determines, or (2) major increases in costs or prices for individual industries, levels of government or geographic regions.

The Department's Notice of Proposed Rulemaking (44 FR 54950, September 21, 1979) requested public comment on the issue of compliance costs and asked for the submission of available cost studies regarding structural and nonstructural modifications to provide for the participation of handicapped persons in programs relevant to this subpart. The public comments received on the matter of costs did not change the Department's earlier view that the compliance costs would not result in major economic consequences within the meaning of Executive Order 12044 and that, accordingly, a Regulatory Analysis would be neither required nor advisable at this time. In the event the Department's experience in implementing this rule indicates that compliance costs exceed anticipated levels, the Department will again review the propriety of undertaking a regulatory analysis.

The anticipated costs of recipients of Department of Justice financial assistance appear to be concentrated in three areas: (1) The removal of architectural barriers; (2) the elimination of communications barriers; and (3) the making of reasonable accommodations to the handicapping conditions of otherwise qualified handicapped persons as employees of recipients.

Architectural Barriers. Structural changes for program accessibility are necessary primarily for persons with severe mobility-related handicaps—persons who cannot climb stairs or step over curbs, cannot open heavy doors, cannot travel without wheelchairs, and the like. Almost all these persons use wheelchairs or walkers. With respect to compliance costs associated with structural modifications, it is crucial to keep the following compliance standards in mind. First, under the requirements of the subpart, structural changes in existing facilities are required only where there is no other

feasible way to make the recipient's program accessible to handicapped persons. For existing facilities, the key requirement is not a barrier free environment, but program accessibility (see illustrative examples set forth in Appendix B, Section C, *infra.*). Second, not every existing facility or part of a facility in a program receiving Federal financial assistance from the Department must be accessible to handicapped persons. The subpart requires only that, when viewed in its entirety, the program is readily accessible to handicapped persons. Where physical access to buildings for handicapped persons requires the construction of ramps, HEW has found "after consultation with experts in the field, that outside ramps to buildings can be constructed quickly and at relatively low cost." 42 FR 22690 (May 4, 1977). Whether the simple installation of ramps and appropriate restroom facilities in buildings will suffice depends upon the design of the facility, the nature and location of the program, and the availability of nonstructural modifications to provide program accessibility.

As to new construction, the available evidence indicates that compliance costs directly attributable to this subpart may be modest for the following reasons.

First, all 50 States have architectural barriers statutes covering publicly funded buildings (where most DOJ recipients are located), while at least 22 States additionally cover privately funded public buildings. The statutes of all 50 States cover new construction, while 35 States also cover renovations and alterations.¹ Thus, since the issue is whether the proposed Department regulations will themselves cause a "major" economic impact, it is noteworthy that much of what is required by this subpart in terms of preventing architectural barriers to handicapped persons already is required by existing State law. Hence, to this extent the incremental Department impact on recipients would appear to be significantly reduced.

Second, this subpart requires that design or construction of new facilities, or alteration of existing facilities, conform with the "American National Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," published by the American National Standards Institute, Inc. (ANSI). (§ 42.522(b)). At least twenty-seven States have already

adopted the ANSI standards in their codes.²

Third, the Architectural Barriers Act of 1968, as amended, 42 U.S.C.A. 4151 *et seq.*, requires that all buildings and facilities "financed in whole or in part by a grant or a loan made by the United States after August 12, 1968" are to be accessible to and usable by the physically handicapped, 42 U.S.C.A. 4151, "if the building or facility is subject to standards for design, construction or alteration issued under the law authorizing the grant or loan." 41 CFR 101-19.602(a)(3) (General Services Administration regulations). LEAA has construed the Architectural Barriers Act as covering all its Part E grants for construction of correctional institutions and facilities. See 42 U.S.C. 3750-3750d (Repealed Dec. 27, 1979 by Pub. L. 96-157, 93 Stat. 1167). The Justice System Improvement Act of 1979, Pub. L. 96-157, 93 Stat. 1167, prohibits LEAA from providing financial assistance to new construction programs (Sec. 404(c)(3)).

Finally, applicants for Department assistance may have previously received Federal financial assistance from other Federal agencies, thereby requiring their compliance with § 504 independent of this subpart. For example, LEAA has provided financial assistance to institutions of higher learning that also receive funds from HEW.³ Also, a substantial portion of Federal revenue sharing money has been annually allocated by State and local units of government to public safety (*i.e.*, police and fire protection). The revenue sharing funds are provided under the State and Local Fiscal Assistance Act of 1972, as amended, 31 U.S.C.A. 1221 *et seq.*, which was amended in 1976 to make section 504 of the Rehabilitation Act applicable to programs funded with revenue sharing monies received by State and local units of government after January 1, 1977.

Communications Barriers. One obvious example of eliminating communications barriers would be the installation of teletypewriters (TTY's) in law enforcement and fire protection agencies to enable hearing and speaking impaired persons to communicate effectively with such agencies. The TTY is a telecommunications device that adapts the telephone to the needs of persons with hearing and speaking impairments. The cost of a TTY is relatively modest and would be even less so where a TTY is shared by a

number of public agencies hooked up to a central TTY number.

The use of qualified interpreters in various settings (e.g., police interrogations, court proceedings, correctional rehabilitation programs) who are, when possible, certified by a recognized certification agency, is another important method of ameliorating the communications barriers experienced by speaking and hearing-impaired individuals. A recipient's need for an interpreter is usually not on a continuing basis, and the overall compliance cost would not be substantial.

Employment. The subpart prohibits discrimination in employment against handicapped persons by recipients of Department financial assistance and, further, requires that recipients make "reasonable accommodations" to the handicaps of otherwise qualified applicants or incumbent employees. A reasonable accommodation in a given employment situation depends upon many variables involving the recipient, the job, and the handicapped employee. The Department, like its recipients, will have to deal with this issue on a case-by-case basis. However, HEW's economic impact statement on the compliance costs of section 504 for its recipients concluded that "our analysis strongly suggests that in the large majority of cases enforcement of reasonable accommodation will not result in any significant cost increase for employers." 41 FR 20332 (May 17, 1976). There is nothing to suggest a different result for employers functioning in programs receiving financial assistance from the Department of Justice.

The Department programs covered by section 504 are set forth in Appendix A to this subpart. An analysis of the final rule is set forth in Appendix B.

II. Rulemaking History

On September 21, 1979 the Department published a Notice of Proposed Rulemaking setting forth proposed regulations for public comment (44 FR 54950). The initial 90-day comment period was extended until January 4, 1980 to provide for additional public participation. (44 FR 76303, December 26, 1979) On November 27, 1979 a public meeting was held in Washington, D.C. to hear oral testimony from interested persons on the proposed rule.

A total of more than 60 comments were received and have been analyzed. Both the written comments and the views expressed at the public meeting have illuminated the complex issues involved in implementing section 504 in an effective and workable fashion. The

² *Amicus*, *id.*

³ Section 305 of the Education Organization Act (Pub. L. No. 96-88, 93 Stat. 688), effective October 17, 1979, transferred LEAA's student loan and grant programs to the new Department of Education.

¹ *Amicus*, pp. 46-47 July/August 1978, National Center for Law and the Handicapped.

Department's response to the comments of interested parties and the explanation for significant changes in the proposed rule are set forth in the section-by-section analysis of the rule that appears as Appendix B to the rule. As that analysis explains, some provisions in the proposed rule have been eliminated as duplicative, unnecessary, or otherwise inappropriate; others have been shortened or clarified. The goal throughout has been to design a rule that preserves the essential elements of an effective program for ending discrimination, while avoiding the imposition of unnecessary or counterproductive administrative obligations on recipients.

In consideration of the foregoing, Part 42 of Title 28 of CFR is amended by adding a new Subpart G reading as set forth below.

Dated: May 16, 1980.

Benjamin R. Civiletti,
Attorney General.

Subpart G—Nondiscrimination Based on Handicap in Federally Assisted Programs—Implementation of Section 504 of the Rehabilitation Act of 1973 and Executive Order 11914

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Appendix A: Federal financial assistance of the Department of Justice to which this subpart applies.

Appendix B: Analysis of Final Rule.

Appendix C: Department regulations under Title VI of the Civil Rights Act of 1964 (28 CFR 42.106–42.110) which apply to this subpart.

Appendix D: OJARS regulations under the Omnibus Crime Control and Safe Streets Act, as amended, which apply to this subpart (28 CFR §§ 42.205 and 42.206).

Authority: Sec. 504, Rehabilitation Act of 1973, Pub. L. 93–112, 87 Stat. 394 (29 U.S.C. 794); Sec. 111(a), Rehabilitation Act Amendments of 1974, Pub. L. 93–516, 88 Stat.

1619 (29 U.S.C. 706); Sec. 120(a), Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, Pub. L. 95–602, 92 Stat. 2955 (1978); Executive Order 11914, April 28, 1976, and 45 CFR Part 85.

General Provisions

§ 42.501 Purpose.

The purpose of this subpart is to implement section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination on the basis of handicap in any program receiving Federal financial assistance.

§ 42.502 Application.

This subpart applies to each recipient of Federal financial assistance from the Department of Justice and to each program receiving or benefiting from such assistance. The requirements of this subpart do not apply to the ultimate beneficiaries of Federal financial assistance in the program receiving Federal financial assistance.

§ 42.503 Discrimination prohibited.

(a) *General.* No qualified handicapped person shall, solely on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program receiving or benefiting from Federal financial assistance.

(b) *Discriminatory actions prohibited.* (1) A recipient may not discriminate on the basis of handicap in the following ways directly or through contractual, licensing, or other arrangements under any program receiving Federal financial assistance:

(i) Deny a qualified handicapped person the opportunity accorded others to participate in the program receiving Federal financial assistance;

(ii) Deny a qualified handicapped person an equal opportunity to achieve the same benefits that others achieve in the program receiving Federal financial assistance;

(iii) Provide different or separate assistance to handicapped persons or classes of handicapped persons than is provided to others unless such action is necessary to provide qualified handicapped persons or classes of handicapped persons with assistance as effective as that provided to others;

(iv) Deny a qualified handicapped person an equal opportunity to participate in the program by providing services to the program;

(v) Deny a qualified handicapped person an opportunity to participate as a member of a planning or advisory body;

(vi) Permit the participation in the program of agencies, organizations or

persons which discriminate against the handicapped beneficiaries in the recipient's program;

(vii) Intimidate or retaliate against any individual, whether handicapped or not, for the purpose of interfering with any right secured by section 504 or this subpart.

(2) A recipient may not deny a qualified handicapped person the opportunity to participate in any program receiving Federal financial assistance on the ground that other specialized programs for handicapped persons are available.

(3) A recipient may not, directly or through contractual, licensing, or other arrangements, utilize criteria or methods of administration that either purposely or in effect discriminate on the basis of handicap, defeat or substantially impair accomplishment of the objectives of the recipient's program with respect to handicapped persons, or perpetuate the discrimination of another recipient if both recipients are subject to common administrative control or are agencies of the same State.

(4) A recipient may not, in determining the location or design of a facility, make selections that either purposely or in effect discriminate on the basis of handicap or defeat or substantially impair the accomplishment of the objectives of the program with respect to handicapped persons.

(5) A recipient is prohibited from discriminating on the basis of handicap in a program operating without Federal financial assistance where such action would discriminate against the handicapped beneficiaries or participants in any program of the recipient receiving Federal financial assistance.

(6) Any program not otherwise receiving Federal financial assistance but using a facility provided with the aid of Federal financial assistance after the effective date of this subpart is prohibited from discriminating on the basis of handicap.

(c) The exclusion of nonhandicapped persons or specified classes of handicapped persons from programs limited by Federal statute or executive order to handicapped persons or a different class of handicapped persons is not prohibited by this subpart.

(d) Recipients shall administer programs in the most integrated setting appropriate to the needs of qualified handicapped persons.

(e) Recipients shall insure that communications with their applicants, employees and beneficiaries are effectively conveyed to those having impaired vision and hearing.

(f) A recipient that employs fifteen or more persons shall provide appropriate auxiliary aids to qualified handicapped persons with impaired sensory, manual, or speaking skills where a refusal to make such provision would discriminatorily impair or exclude the participation of such persons in a program receiving Federal financial assistance. Such auxiliary aids may include brailled and taped material, qualified interpreters, readers, and telephonic devices. Attendants, individually prescribed devices, readers for personal use or study, or other devices or services of a personal nature are not required under this section. Departmental officials may require recipients employing fewer than fifteen persons to provide auxiliary aids when this would not significantly impair the ability of the recipient to provide its benefits or services.

(g) The enumeration of specific forms of prohibited discrimination in this subpart is not exhaustive but only illustrative.

§ 42.504 Assurances required.

(a) *Assurances.* Every application for Federal financial assistance covered by this subpart shall contain an assurance that the program will be conducted in compliance with the requirements of section 504 and this subpart. Each agency within the Department that provides Federal financial assistance shall specify the form of the foregoing assurance for each of its assistance programs and shall require applicants for Department financial assistance to obtain like assurances from subgrantees, contractors and subcontractors, transferees, successors in interest, and others connected with the program. Each Department agency shall specify the extent to which an applicant will be required to confirm that the assurances provided by secondary recipients are being honored. Each assurance shall include provisions giving notice that the United States has a right to seek judicial enforcement of section 504 and the assurance.

(b) *Assurances from government agencies.* Assurances from agencies of State and local governments shall extend to any other agency of the same governmental unit if the policies of the other agency will affect the program for which Federal financial assistance is requested.

(c) *Assurances from institutions.* The assurances required with respect to any institution or facility shall be applicable to the entire institution or facility.

(d) *Duration of obligation.* Where the Federal financial assistance is to provide or is in the form of real or

personal property, the assurance will obligate the recipient and any transferee for the period during which the property is being used for the purpose for which the Federal financial assistance is extended or for another purpose involving the provisions of similar benefits, or for as long as the recipient retains ownership or possession of the property, whichever is longer. In all other cases the assurance will obligate the recipient for the period during which Federal financial assistance is extended.

(e) *Covenants.* With respect to any transfer of real property, the transfer document shall contain a covenant running with the land assuring nondiscrimination on the condition described in paragraph (d). Where the property is obtained from the Federal Government, the covenant may also include a condition coupled with a right to be reserved by the Department to revert title to the property in the event of a breach of the covenant.

(f) *Remedies.* The failure to secure either an assurance or a sufficient assurance from a recipient shall not impair the right of the Department to enforce the requirements of section 504 and this subpart.

§ 42.505 Administrative requirements for recipients.

(a) *Remedial action.* If the Department finds that a recipient has discriminated against persons on the basis of handicap in violation of section 504 or this subpart, the recipient shall take the remedial action the Department considers necessary to overcome the effects of the discrimination. This may include remedial action with respect to handicapped persons who are no longer participants in the recipient's program but who were participants in the program when such discrimination occurred, and with respect to handicapped persons who would have been participants in the program had the discrimination not occurred.

(b) *Voluntary action.* A recipient may take steps, in addition to the requirements of this subpart, to increase the participation of qualified handicapped persons in the recipient's program.

(c) *Self-evaluation.* (1) A recipient shall, within one year of the effective date of this subpart, evaluate and modify its policies and practices that do not meet the requirements of this subpart. During this process the recipient shall seek the advice and assistance of interested persons, including handicapped persons or organizations representing handicapped persons. During this period and thereafter the recipient shall take any

necessary remedial steps to eliminate the effects of discrimination that resulted from adherence to these policies and practices.

(2) A recipient employing fifty or more persons and receiving Federal financial assistance from the Department of \$25,000 or more shall, for at least three years following completion of the evaluation required under paragraph (c)(1) of this section, maintain on file, make available for public inspection, and provide to the Department on request: (i) a list of the interested persons consulted, (ii) a description of areas examined and problems identified, and (iii) a description of modifications made and remedial steps taken.

(d) *Designation of responsible employee.* A recipient employing fifty or more persons and receiving Federal financial assistance from the Department of \$25,000 or more shall designate at least one person to coordinate compliance with this subpart.

(e) *Adoption of grievance procedures.* A recipient employing fifty or more persons and receiving Federal financial assistance from the Department of \$25,000 or more shall adopt grievance procedures that incorporate due process standards (e.g. adequate notice, fair hearing) and provide for the prompt and equitable resolution of complaints alleging any action prohibited by this subpart. Such procedures need not be established with respect to complaints from applicants for employment. An employee may file a complaint with the Department without having first used the recipient's grievance procedures.

(f) *Notice.* (1) A recipient employing fifty or more persons and receiving Federal financial assistance from the Department of more than \$25,000 shall, on a continuing basis, notify participants, beneficiaries, applicants, employees and unions or professional organizations holding collective bargaining or professional agreements with the recipient that it does not discriminate on the basis of handicap in violation of section 504 and this subpart. The notification shall state, where appropriate, that the recipient does not discriminate in its programs with respect to access, treatment or employment. The notification shall also include identification of the person responsible for coordinating compliance with this subpart and where to file section 504 complaints with the Department and, where applicable, with the recipient. A recipient shall make the initial notification required by this paragraph within 90 days of the effective date of this subpart. Methods

of initial and continuing notification may include the posting of notices, publication in newspapers and magazines, placement of notices in recipients' publication, and distribution of memoranda or other written communications.

(2) Recruitment materials or publications containing general information that a recipient makes available to participants, beneficiaries, applicants, or employees shall include a policy statement of nondiscrimination on the basis of handicap.

(g) The Department may require any recipient with fewer than fifty employees and receiving less than \$25,000 in Federal financial assistance to comply with paragraphs (c)(2) and (d)-(f) of this section.

(h) The obligation to comply with this subpart is not affected by any State or local law or requirement or limited employment opportunities for handicapped persons in any occupation or profession.

Employment

§ 42.510 Discrimination prohibited.

(a) *General.* (1) No qualified handicapped person shall on the basis of handicap be subjected to discrimination in employment under any program receiving or benefiting from Federal financial assistance.

(2) A recipient shall make all decisions concerning employment under any program receiving Federal financial assistance in a manner which insures that discrimination on the basis of handicap does not occur and may not limit, segregate, or classify applicants or employees in any way that adversely affects their opportunities or status because of handicap.

(3) A recipient may not participate in a contractual or other relationship that has the effect of subjecting qualified handicapped applicants or employees to discrimination prohibited by this section. The relationships referred to in this paragraph include relationships with employment and referral agencies, labor unions, organizations providing or administering fringe benefits to employees of the recipient, and organizations providing training and apprenticeship programs, and with civil service agencies in State or local units of government.

(b) *Specific activities.* The prohibition against discrimination in employment applies to the following activities:

(1) Recruitment, advertising, and application processing;

(2) Hiring, upgrading, promotion, award of tenure, demotion, transfer,

layoff, termination, right of return from layoff and rehiring;

(3) Pay and any other form of compensation and changes in compensation, including fringe benefits available by virtue of employment, whether or not administered by the recipient;

(4) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;

(5) Leaves of absence, sick leave, or any other leave;

(6) Selection and financial support for training, including apprenticeship, professional meetings, conferences, and selection for leaves of absence to pursue training;

(7) Employer-sponsored activities, including social or recreational programs; and

(8) Any other term, condition, or privilege of employment.

(c) In offering employment or promotions to handicapped individuals, recipients may not reduce the amount of compensation offered because of any disability income, pension or other benefit the applicant or employee receives from another source.

(d) A recipient's obligation to comply with this section is not affected by any inconsistent term of any collective bargaining agreement to which it is a party.

§ 42.511 Reasonable accommodation.

(a) A recipient shall make reasonable accommodation to the known physical or mental limitations of an otherwise qualified handicapped applicant or employee unless the recipient can demonstrate, based on the individual assessment of the applicant or employee, that the accommodation would impose an undue hardship on the operation of its program.

(b) Reasonable accommodation may include making facilities used by employees readily accessible to and usable by handicapped persons, job restructuring, part-time or modified work schedules, acquisition or modification of equipment or devices (e.g., telecommunication or other telephone devices), the provisions of readers or qualified interpreters, and other similar actions.

(c) Whether an accommodation would impose an undue hardship on the operation of a recipient's program depends upon a case-by-case analysis weighing factors that include:

(1) The overall size of the recipient's program with respect to number of employees, number and type of facilities, and size of budget;

(2) The type of the recipient's operation, including the composition and structure of the recipient's workforce; and

(3) The nature and cost of the accommodation needed.

A reasonable accommodation may require a recipient to bear more than an insignificant economic cost in making allowance for the handicap of a qualified applicant or employee and to accept minor inconvenience which does not bear on the ability of the handicapped individual to perform the essential duties of the job.

§ 42.512 Employment criteria.

(a) A recipient may not use any employment test or other selection criterion that tends to screen out handicapped persons unless: (1) The test score or other selection criterion, as used by the recipient, is shown to be job-related for the position in question, and (2) alternative job-related tests or criteria that tend to screen out fewer handicapped persons are not shown by the appropriate Department officials to be available.

(b) A recipient shall administer tests using procedures (e.g., auxiliary aids such as readers for visually-impaired persons or qualified sign language interpreters for hearing-impaired persons) that accommodate the special problems of handicapped persons to the fullest extent, consistent with the objectives of the test. When a test is administered to an applicant or employee who has a handicap that impairs sensory, manual, or speaking skills, the test results must accurately reflect the applicant's or employee's job skills, aptitude, or whatever other factor the test purports to measure, rather than reflecting the applicant's or employee's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure).

§ 42.513 Preemployment inquiries.

(a) Except as provided in paragraphs (b) and (c) of this section, a recipient may not conduct a preemployment medical examination and may not make preemployment inquiry of an applicant as to whether the applicant is a handicapped person or as to the nature or severity of a handicap. A recipient may, however, make preemployment inquiry into an applicant's ability to perform job-related functions.

(b) When a recipient is taking remedial action to correct the effects of past discrimination pursuant to § 42.505(a) of this subpart, when a recipient is taking voluntary action to overcome the effects of conditions that

resulted in limited participation in its Federally assisted program or activity pursuant to § 42.505(b) of this subpart, or when a recipient is taking affirmative action pursuant to section 503 of the Act, the recipient may invite applicants for employment to indicate whether and to what extent they are handicapped, *Provided That:*

(1) The recipient states clearly on any written questionnaire used for this purpose or makes clear orally if no written questionnaire is used that the information requested is intended for use solely in connection with its remedial action obligations or its voluntary efforts;

(2) The recipient states clearly that the information is being requested on a voluntary basis, that it will be kept confidential as provided in paragraph (d) of this section, that refusal to provide it will not subject the applicant or employee to any adverse treatment, and that it will be used only in accordance with this part.

(c) Nothing in this section shall prohibit a recipient from conditioning an offer of employment on the results of a medical examination conducted prior to the employee's entrance on duty.

Provided That: (1) All entering employees are subjected to such an examination regardless of handicap, and (2) the results of such an examination are used only in accordance with the requirements of this subpart.

(d) The applicant's medical record shall be collected and maintained on separate forms and kept confidential, except that the following persons may be informed:

(1) Supervisors and managers regarding restrictions on the work of handicapped persons and necessary accommodations;

(2) First aid and safety personnel if the condition might require emergency treatment; and

(3) Government officials investigating compliance with the Act upon request for relevant information.

Program Accessibility

§ 42.520 Discrimination prohibited.

Recipients shall insure that no qualified handicapped person is denied the benefits of, excluded from participation in, or otherwise subjected to discrimination under any program receiving Federal financial assistance because the recipient's facilities are inaccessible to or unusable by handicapped persons.

§ 42.521 Existing facilities.

(a) *Program accessibility.* A recipient shall operate each program to which this subpart applies so that the program,

when viewed in its entirety, is readily accessible to and usable by handicapped persons. This section does not require a recipient to make each of its existing facilities or every part of a facility accessible to and usable by handicapped persons.

(b) *Compliance procedures.* A recipient may comply with the requirement of paragraph (a) of this section through acquisition or redesign of equipment, reassignment of services to accessible buildings, assignment of aids to beneficiaries, delivery of services at alternate accessible sites, alteration of existing facilities, or any other method that results in making its program accessible to its program accessible to handicapped persons. A recipient is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with paragraph (a) of this section. In choosing among methods for meeting the requirement of paragraph (a), a recipient shall give priority to those methods that offer programs to handicapped persons in the most integrated setting appropriate to obtain the full benefits of the program.

(c) *Small providers.* If a recipient with fewer than fifteen employees finds, after consultation with a handicapped person seeking its services, that there is no method of complying with § 42.521(a) other than making a significant alteration in its existing facilities, the recipient may, as an alternative, refer the handicapped person to other available providers of those services that are accessible.

(d) *Time period.* A recipient shall comply with the requirement of paragraph (a) within ninety days of the effective date of this subpart. However, where structural changes in facilities are necessary, such changes shall be made as expeditiously as possible and shall be completed no later than three years from the effective date of this subpart. If structural changes to facilities are necessary, a recipient shall, within six months of the effective date of this subpart, develop a written plan setting forth the steps that will be taken to complete the changes together with a schedule for making the changes. The plan shall be developed with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons and shall be made available for public inspection. The plan shall, at a minimum:

(1) Identify physical obstacles in the recipient's facilities that limit the accessibility of its program to handicapped persons;

(2) Describe in detail the methods that will be used to make the facilities accessible;

(3) Specify the schedule for taking the steps necessary to achieve full program accessibility and, if the time period of the transition plan is longer than one year, identify the steps that will be taken during each year of the transition period; and

(4) Indicate the person responsible for implementation of the plan.

(e) *Notice.* The recipient shall adopt and implement procedures to insure that interested persons, including mentally retarded persons or persons with impaired vision or hearing, special learning problems, or other disabilities, can obtain information as to the existence and location of services, activities, and facilities that are accessible to and usable by handicapped persons.

§ 42.522 New construction.

(a) *Design and construction.* Each new facility constructed by, on behalf of, or for the use of a recipient shall be designed and constructed in such a manner that the facility is readily accessible to and usable by handicapped persons, if the construction was commenced after the effective date of this subpart. Any alterations to existing facilities shall, to the maximum extent feasible, be made in an accessible manner. Any alterations to existing facilities shall, to the maximum extent feasible, be made in an accessible manner.

(b) *American National Standards Institute accessibility standards.* Design, construction, or alteration of facilities in conformance with the "American National Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped" published by the American National Standards Institute, Inc. (ANSI A 117.1-1961 (R1971)),⁴ which is incorporated by reference in this subpart, shall constitute compliance with paragraph (a) of this section. Departures from particular requirements of those standards by the use of other methods shall be permitted when it is clearly evident that equivalent access to the facility is provided.

⁴ Incorporation by reference provisions approved by the Director of the Federal Register on May 21, 1980, copies obtainable from American National Standards Institute, Inc., 1430 Broadway, New York, N.Y. 10018, (212/354-3300). A copy is also on file at the Office of the Federal Register.

Procedures**§ 42.530 Procedures.**

(a) The procedural provisions applicable to Title VI of the Civil Rights Act of 1964 (28 CFR 42.106-42.110) apply to this subpart except that the provision contained in § 42.110(e) and § 42.108(c)(3) which requires the Attorney General's approval before the imposition of any sanction against a recipient does not apply to programs funded by LEAA, NIJ, BJS, OJARS and OJJDP. The applicable provisions contain requirements for compliance information (§ 42.106), conduct of investigations (§ 42.107), procedure for effecting compliance (§ 42.108), hearings (§ 42.109), and decisions and notices (§ 42.110). (See Appendix C).

(b) In the case of programs funded by LEAA, NIJ, BJS, OJARS and OJJDP, the timetables and standards for investigation of complaints and for the conduct of compliance reviews contained in § 42.205(c)(1)-(c)(3) and § 42.206 (c) and (d) are applicable to this subpart except that any finding of noncompliance shall be enforced as provided in paragraph (a) of this section. (See Appendix D).

(c) In the case of programs funded by LEAA, NIJ, BJS, OJARS and OJJDP, the refusal to provide requested information under paragraph (a) above and § 42.106 will be enforced pursuant to the provisions of section 803(a) of Title I of the Omnibus Crime Control and Safe Streets Act, as amended by the Justice System Improvement Act of 1979, Pub. L. 96-157, 93 Stat. 1167.

(d) For acts of discrimination occurring prior to the effective date of this subpart, the 180-day limitation period for filing of complaints (§ 42.107 of this Title) will apply from that date.

(e) The Department will investigate complaints alleging discrimination in violation of section 504 occurring prior to the effective date of this subpart where the language of the statute or HEW's interagency guidelines (43 FR 2132, January 13, 1978) implementing Executive Order 11914 (41 FR 17871, April 28, 1976) provided notice that the challenged policy or practice was unlawful.

Definitions**§ 42.540 Definitions.**

As used in this subpart the term:

(a) "The Act" means the Rehabilitation Act of 1973, Pub. L. 93-112, as amended (29 U.S.C. 701 *et seq.*).

(b) "Section 504" means section 504 of the Act (29 U.S.C. 794).

(c) "Department" means the Department of Justice.

(d) "LEAA" means the Law Enforcement Assistance Administration; "NIJ" means the National Institute of Justice; "BJS" means the Bureau of Justice Statistics; "OJARS" means the Office of Justice Assistance, Research and Statistics; "OJJDP" means Office of Juvenile Justice and Delinquency Prevention.

(e) "Recipient" means any State or unit of local government, any instrumentality of a State or unit of local government, any public or private agency, institution, organization, or other public or private entity, or any person to which Federal financial assistance is extended directly or through another recipient, including any successor, assignee, or transferee of a recipient, but excluding the ultimate beneficiary of the assistance.

(f) "Federal financial assistance" means any grant, cooperative agreement, loan, contract (other than a direct Federal procurement contract or a contract of insurance or guaranty), subgrant, contract under a grant or any other arrangement by which the Department provides or otherwise makes available assistance in the form of:

(1) Funds;

(2) Services of Federal personnel;

(3) Real and personal property or any interest in or use of such property, including:

(i) Transfers or leases of such property for less than fair market value or for reduced consideration; and

(ii) Proceeds from a subsequent transfer or lease of such property if the Federal share of its fair market value is not returned to the Federal Government;

(4) Any other thing of value by way of grant, loan, contract or cooperative agreement.

(g) "Facility" means all or any portion of buildings, structures, equipment, roads, walks, parking lots, or other real or personal property or interest in such property.

(h) The term "program" means the operations of the agency or organizational unit of government receiving or substantially benefiting from the Federal assistance awarded, e.g., a police department or department of corrections.

(i) "Ultimate beneficiary" is one among a class of persons who are entitled to benefit from, or otherwise participate in, programs receiving Federal financial assistance and to whom the protections of this subpart extend. The ultimate beneficiary class may be the general public or some narrower group of persons.

(j) "Benefit" includes provision of services, financial aid or disposition

(i.e., treatment, handling, decision, sentencing, confinement, or other prescription of conduct).

(k) "Handicapped Person". (1)

"Handicapped person" means any person who (i) has a physical or mental impairment which substantially limits one or more major life activities, (ii) has a record of such an impairment, or (iii) is regarded as having such an impairment. For purposes of employment, such term does not include any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents such individual from performing the duties of the job in question or whose employment, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others. (2) As used in this subpart the phrase:

(i) "Physical or mental impairment" means (A) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive, digestive; genitourinary; hemic and lymphatic; skin; and endocrine; (B) any mental or psychological disorder such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, and drug and alcohol abuse.

(ii) "Major life activities" mean functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(iii) "Has a record of such an impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(iv) "Is regarded as having an impairment" means (A) has a physical or mental impairment that does not substantially limit major life activities but that is treated by a recipient as constituting such a limitation; (B) has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or (C) has none of the impairments defined in paragraph (k)(2)(i) of this section but is treated by a recipient as having such an impairment.

(l) "Qualified handicapped person" means: (1) With respect to employment, a handicapped person who, with reasonable accommodation, can perform the essential functions of the job in question; (2) With respect to services, a handicapped person who meets the essential eligibility requirements for the receipt of such services.

(m) "Handicap" means any condition or characteristic that renders a person a handicapped person as defined in paragraph (k) of this section.

(n) "Drug abuse" means (1) the use of any drug or substance listed by the Department of Justice in 21 CFR 1308.11, under authority of the Controlled Substances Act, 21 U.S.C. 801, as a controlled substance unavailable for prescription because (i) the drug or substance has a high potential for abuse, (ii) the drug or other substance has no currently accepted medical use in treatment in the United States, (iii) there is a lack of accepted safety for use of the drug or other substance under medical supervision; (2) the misuse of any drug or substance listed by the Department of Justice in 21 CFR 1308.12-.15 under authority of the Controlled Substances Act as a controlled substance available for prescription. Examples of (1) include certain opiates and opiate derivatives (e.g., heroin) and hallucinogenic substances (e.g., marihuana, mescaline, peyote) and depressants (e.g., methaqualone). Examples of (2) include opium, coca leaves, methadone, amphetamines and barbituates.

(o) "Alcohol abuse" includes alcoholism but also means any misuse of alcohol which demonstrably interferes with a person's health, interpersonal relations or working.

Appendix A—Federal Financial Assistance of the Department of Justice to Which this Subpart Applies

1. Assistance provided by LEAA, NIJ, BJS, OJARS and OJJDP under Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by the Justice System Improvement Act of 1979, Pub. L. 96-157, 93 Stat. 1167, and the Juvenile Justice and Delinquency Prevention Act of 1974, 42 U.S.C. 5601 *et seq.*, as amended.

2. Assistance provided by the Federal Bureau of Investigation through its National Academy and law enforcement training activities and laboratory facilities under the Omnibus Crime Control and Safe Streets Act of 1968, as amended.

3. Assistance provided by the Bureau of Prisons through its National Institute of Corrections for training programs under the Juvenile Justice and Delinquency Prevention Act, as amended, 18 U.S.C. 4351-4353.

4. Assistance provided by the Drug Enforcement Administration under the Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 U.S.C. 801 *et seq.*

5. Assistance provided by the Attorney General for antitrust enforcement under section 116 of the Crime Control Act of 1976, 42 U.S.C. 3739.⁵

6. Assistance provided by the Department under the Disputes Resolution Act, Pub. L. 96-190, 94 Stat. 17.

7. Assistance provided by the Department under the State and Local Drug Strike Force Grant Program, Pub. L. 96-68, Title II, 93 Stat. 419.

Appendix B—Analysis of Final Rule

A. General Provisions

This subpart prohibits discrimination on the basis of handicap in any program, activity or facility receiving Federal financial assistance (§ 42.501). Section 504 protects not only the ultimate beneficiaries of Federal assistance statutes (e.g., students, prisoners, general public) as identified in the Federal grant statutes directly or by inference, but also nonbeneficiary participants (e.g., employees working in the program receiving Federal financial assistance regardless of whether a primary objective of the Federal assistance includes providing employment opportunities). The subpart applies to all Federal assistance programs administered by the Department and requires all recipients of such assistance to comply with the requirements of the subpart (§ 42.502). The subpart not only applies to grants, contracts and cooperative agreements entered into after the effective date of the subpart, but also applies to any Federal financial assistance previously extended which continues at the time the subpart becomes effective.

The subpart sets forth a variety of illustrative examples to identify conduct which is unlawfully discriminatory and requirements to maintain Federally assisted programs free of unlawful discrimination (§ 42.503). Prohibited conduct includes arbitrary acts of exclusion or other invidious discrimination (§ 42.503(b)(1)(i)), refusal to provide specialized assistance to qualified handicapped persons (§ 42.503(b)(1)(ii)), refusal to permit qualified handicapped persons to participate in a Federal assistance program in providing services (e.g., excluding qualified handicapped persons as contractors). The subpart also prohibits any agency, organization or person that discriminates against handicapped beneficiaries from participating in Federal assistance programs (§ 42.503(b)(1)(v)). A recipient may not discriminate against handicapped persons in its non-Federally funded programs if such action would discriminate against handicapped beneficiaries and participants in the recipient's Federally supported programs (§ 42.503(b)(5)). Further, no program conducted in a facility provided with Federal aid, after the effective date of section 504, can discriminate on the basis of handicap (§ 42.503(b)(6)). Also, a recipient may be required to provide auxiliary aids (e.g., qualified interpreters for speaking and

⁵ Congress has not appropriated funds for this program for Fiscal Year 1980 which ends September 30, 1980. The Department made its last grants under the program by September 30, 1979.

hearing-impaired persons, and readers for sight-impaired persons) under appropriate circumstances (§ 42.503(f)).

The primary thrust of these illustrative examples is to emphasize the Federal policy that qualified handicapped beneficiaries and participants (e.g., employees) in Federally assisted programs are to be treated no differently than nonhandicapped beneficiaries and participants where such different treatment would materially impair the handicapped persons' ability to receive benefits or participate on an equal footing with non-handicapped persons. Thus "a recipient may not, directly or through contractual, licensing, or other arrangements, utilize criteria or methods of administration that either purposely or in effect discriminate on the basis of handicap" (§ 42.503(b)(3)). This provision gives notice that, ordinarily, a recipient's obligation under section 504 is broader than the mere avoidance of direct discrimination and encompasses an obligation to assure that second-tier recipients (e.g., organizations receiving Federal financial assistance through the primary recipient) also adhere to the requirements of section 504. Accordingly, Criminal Justice Councils (CJC's) established under Part D of Title I of the Omnibus Crime Control and Safe Streets Act, as amended by the Justice System Improvement Act of 1979, have a continuing obligation to insure that second-tier recipients receiving Federal financial assistance through the SPA's comply with section 504 and this subpart. The subpart requires an applicant for Federal financial assistance to execute an assurance of compliance with section 504 and this subpart, and obtain similar assurances from second-tier recipients (§ 42.504(a)-(c)). This is a change from the proposed rule which gave an appropriate Department official discretion to determine the extent a primary recipient would be obligated to obtain assurances from secondary recipients. Some commentators believed the flexible standard in the proposed rule was unwarranted in view of the clear statutory responsibility of second-tier recipients to comply with section 504.

Under certain circumstances it may be necessary to obtain assurances not only from second-tier recipients but also from vendors of services participating in a program receiving Federal financial assistance where such services affect the ultimate beneficiaries (e.g., community-based facilities operating under Federal assistance contracts to provide services to beneficiaries).

Assurances from State or local recipient government agencies shall extend to other agencies of the same governmental unit if the policies or practices of the other agency affect the Federal assistance program of the recipient agency (§ 42.504(b)). Assurances from institutions or facilities (e.g., law enforcement agencies, prisons, court systems) shall cover the entire institution or facility (§ 42.504(c)).

The subpart specifies the duration of the recipient's section 504 obligation (§ 42.504(d)) and notes that the failure to secure an assurance from a recipient does not impair the right of the Department to enforce the requirements of section 504 and this subpart because a recipient's obligation is statutory as well as contractual (§ 42.504(f)).

Each recipient is required to evaluate and modify any of its policies which does not meet the requirements of the subpart (§ 42.505(c)(1)), and each recipient employing a minimum of fifty employees and receiving Federal financial assistance from the Department of \$25,000 or more must maintain a record of the self-evaluation (§ 42.505(c)(2)), designate an employee to coordinate compliance with the subpart (§ 42.505(d)), adopt grievance procedures which incorporate due process standards (§ 42.505(e)) and provide notice on a continuing basis that it does not discriminate on the basis of handicap (§ 42.505(f)).

The HEW section 504 rule provides that any recipient employing fifteen or more persons is required to adopt these procedures (45 CFR 84.6(c)(2), 84.7, 84.8(a)). Some commentators expressed concern that the Department established a less encompassing procedural standard than HEW. The Department's numerical and monetary standard used in this subpart is identical to that used by LEAA, the Department's major grant agency, in its "Equal Employment Opportunity Program Guidelines" (28 CFR 42.301 *et seq.*) directed to its recipients and which requires the formulation, implementation and maintenance of a written equal employment opportunity program relating to employment practices affecting minority persons and women. It is appropriate that the Department maintain a consistent approach in ensuring the rights of the various categories of persons protected by Federal law. Further, it should be noted that the Department's action is consistent with the HEW guidelines for the development of Federal agency section 504 regulations which are substantially less exacting than the procedures adopted by the Department for its own programs. The guidelines impose no minimum numerical standard (45 CFR 85.5(b)). Finally, this subpart provides that "the Department may require any recipient with fewer than fifty employees and receiving less than \$25,000 in Federal financial assistance to comply" with the procedural standards (§ 42.505(g)). Of course, recipients having fewer than fifty employees and receiving less than \$25,000 in Department assistance are bound by section 504 and all the substantive and procedural requirements of this subpart which do not explicitly exempt such recipients.

The Department adopted one commentator's recommendation that notice be given in § 42.505(d) that employees may file complaints with the Department without having first used the recipients' grievance procedure mechanisms. Additionally, the notice requirements of § 42.505(f)(1) now provide examples of initial and continuing notification (e.g., posters, magazines and memoranda). Further, a new requirement has been added to provide that all recipients must provide notice to the public on where to file section 504 complaints with the Department and, where applicable, with the recipient concerning the recipients' programs.

The subpart also provides that a recipient's obligation to comply with the subpart is not affected by inconsistent State and local laws or the limited employment opportunities for handicapped persons in any occupation or profession (§ 42.505(h)).

B. Employment

HEW has construed section 504 to prohibit employment discrimination against handicapped persons in all programs receiving Federal financial assistance. See HEW's section 504 regulations, 42 FR 22680 (May 4, 1977) and 45 CFR 84.11 (1978). Several courts have construed section 504 to cover employment discrimination. See, e.g., *Duran v. City of Tampa*, 430 F. Supp. 75 (M.D. Fla. 1977); *Drennon v. Philadelphia General Hospital*, 428 F. Supp. 809 (E.D. Pa. 1977); *Granel v. Los Angeles Community College District*, No. CV 78-1823-ALS (Kx) (C.D. Cal., Dec. 29, 1978) (order granting dismissal). To date, two courts of appeals have taken a narrower view. See in *Trageser v. Libbie Rehabilitation Center, Inc.*, 590 F. 2d 87 (4th Cir. 1978), *cert. den.*, 442 U.S. 947 (1979); *Carmi v. Metropolitan St. Louis Sewer District*, No. 79-1325, — F. 2d — (8th Cir. May 6, 1980). In *Trageser* the court held that employment discrimination is prohibited by section 504 only to the extent that it is prohibited by Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d *et seq.* (1970). Title VI, which prohibits racial discrimination in programs receiving Federal financial assistance, covers employment discrimination only (1) "where a primary objective of the Federal financial assistance is to provide employment" (section 604 of Title VI, 42 U.S.C. 2000-3 (1970)), or (2) when the recipient's employment discrimination results in discrimination against the ultimate beneficiaries of the program receiving Federal financial assistance (see *Caulfield v. Board of Education*, 583 F. 2d 605 (2d Cir. 1978)). Neither of these factors was present in *Trageser*.

The court's decision appears to rest solely on the language of section 120(a) of the Rehabilitation Act Amendments of 1978, which provides that "the remedies, procedures, and rights set forth in title VI of the Civil Rights Act of 1964 shall be available" to persons aggrieved because of section 504 violations. Accordingly, "in the absence of legislative history to the contrary," the court held that section 120(a) of the Rehabilitation Act Amendments of 1978 incorporated the limitations of Title VI coverage as to employment discrimination. *Id.* at 89.

The court, in its analysis, did not focus on the remedial purpose of section 504 to provide broad protections to handicapped persons. Nor did the court consider the legislative histories of the Rehabilitation Act of 1973 and its subsequent amendments, which reflect the continuing congressional concern for the employment problems of handicapped persons. See, e.g., S. Rep. No. 93-318, 93d Cong., 1st Sess. 18-19, 70 (1973); S. Rep. No. 93-319, 93d Cong., 1st Sess. 2, 8 (1973); H.R. Rep. No. 95-1149, 95th Cong., 2d Sess. 16, 18, 23-29, 34, 38, 42-43 (1978); S. Rep. No. 95-890, 95th Cong., 2d Sess. 8, 13, 20-21, 27, 36 (1978); H.R. Conf. Rep. No. 95-1780, 95th Cong., 2d Sess. 80-81, 94-96, 98, 102 (1978). Further, the legislative history of section 120(a), which apparently was not brought to the attention of the court, indicates that the provision was not intended to limit the scope of section 504, but was merely a legislative ratification of HEW's enforcement procedures under section 504.

Section 120(a) was originally a provision in S. 2600 (95th Cong., 2d Sess., section 118(a) (1978)), the Senate version of the Rehabilitation Amendments of 1978 reported by the Senate Committee on Human Resources on May 15, 1978. The Committee stated, with respect to section 120(a):

It is the committee's understanding that the regulations promulgated by the Department of Health, Education, and Welfare with respect to procedures, remedies, and rights under section 504 conform with those promulgated under Title VI. Thus, *this amendment codifies existing practice as a specific statutory requirement.* (Sen. Rep. No. 95-890, 95th Cong., 2d Sess. 19 (1978).) (Emphasis added)

In view of the legislative history of the Rehabilitation Act of 1973 and its amendments, HEW's administrative construction, the remedial nature of section 504 and the legislative history of section 120(a), the Department believes that the employment practices of recipients of Federal financial assistance are covered by section 504 regardless of the purpose of the assistance, and the Department's proposed regulations reflect this view (§§ 42.510-42.513).⁶ However, *Trageser* is the controlling rule for Maryland, North Carolina, South Carolina, Virginia and West Virginia, the five States comprising the Fourth Circuit; and *Carmi* is the controlling law for Arkansas, Iowa, Minnesota, Missouri, Nebraska, North Dakota and South Dakota, the seven States comprising the Eighth Circuit. Accordingly, the provisions of this subpart relating to employment will be enforced in the Fourth and Eighth Circuit States only where employment is a primary objective of the Federal financial assistance or where discrimination against employees affects the beneficiaries of the assistance.

It should be noted that § 42.510(e) of the proposed rule was deleted and is now incorporated in § 42.510(a)(3) of the final rule for the reason that § 42.510(e) was largely duplicative of § 42.510(a)(3). The subpart requires that recipients make a reasonable accommodation to the known physical or mental limitations of an otherwise qualified handicapped applicant or employee. If a qualified handicapped applicant or employee is denied a job or is terminated, the burden is on the employer to show, based on the individual assessment of the applicant or employee, that the accommodation would impose an undue hardship on the operation of its program. The subpart suggests examples of reasonable accommodations (e.g., job restructuring, modified work schedules, acquisition or modification of equipment or devices) (§ 42.511(b)) but recognizes that the determination of whether an accommodation presents an undue hardship depends on a case-by-case analysis weighing factors such as the overall size of the recipient's program with respect to the number of employees, number and type of facilities, and size of budget; the type of the

⁶ In *Carmi v. Metropolitan St. Louis Sewer District*, *supra*, the three-judge panel adopted the view of *Trageser*. At least one Federal district court has declined to follow the *Trageser* ruling. See, *Hart v. County of Alameda*, No. C-79-0091 WHO (N.D. Cal. Sept. 5, 1979).

recipient's operation, including the composition and structure of the recipient's workforce; and the nature and cost of the accommodation needed (§ 42.511(c)(1)-(5)). The Department believes that the fact that an accommodation's cost would be more than nominal does not by itself justify refusal of the accommodation.

The use of the "reasonable accommodation/undue hardship" standard in determining the issue of reasonable accommodation is drawn from the HEW section 504 rule (45 CFR 84.12(a), (c)) and represents a change from the language (but not the substance) of the Department's proposed rule. Some commentators believed the Department's departure from the HEW language in order to broaden the concept of reasonable accommodation resulted in weakening that standard. In the interest of eliminating this perception and to promote uniformity, the Department has adopted the HEW language.

The proposed rule places an obligation on the recipient to use job-related tests or other job-related selection criteria which screen out the fewest qualified handicapped persons and to "administer tests using procedures (e.g., auxiliary aids such as readers for visually-impaired persons or qualified interpreters for hearing-impaired persons) which accommodate the special problems of handicapped persons to the fullest extent, consistent with the objectives of the test" (§ 42.512). Thus an oral test given to an applicant with a speech impediment would be improper where the essential functions of the job do not require clear speech. Where physical agility and visual acuity are necessary to perform the essential functions of a job, tests measuring those factors are permitted. To further clarify this obligation the Department has, at the recommendation of several commentators, added language to § 42.512 drawn from the HEW section 504 rule (see 45 CFR 84.13(b)) to the effect that tests are to measure job qualifications and not impaired sensory, manual, or speaking skills, except where those skills are the factors that the test purports to measure.

A recipient is prohibited from making pre-employment inquiry regarding an applicant's physical or mental handicaps except where the recipient is taking remedial or voluntary action under § 42.505(a) or (b) of this subpart, affirmative action under section 503 of the Act, or conducting a permissible pre-employment physical examination. Under such circumstances, response to the inquiries must be voluntary and certain safeguards (e.g., confidentiality) must be maintained by the employer (§ 42.513(b)). Recipients may, of course, inquire about an applicant's ability to perform job-related functions. Accordingly, for example, questions regarding the ability to drive a car, shoot a gun, or work steadily over long periods of time or in situations of emergency or stress are proper questions for the job of police officer, while questions as to whether the applicant has epilepsy or a heart condition are not permitted. An employer may, of course, ask whether the applicant can perform a particular job without endangering the applicant or others. Further, an application form containing a checklist of diseases and conditions is not permitted.

However, nothing in this subpart prohibits an employer from setting forth validated medical requirements in recruitment material. Medical examinations are permitted, after a conditional job offer has been made, if the examinations are administered to all entering employees in a nondiscriminatory manner and the results are treated on a confidential basis (§§ 42.513(a) and (b)). An applicant can only be considered to have failed a medical examination if the applicant's medical condition, even with reasonable accommodation, would prevent the applicant from performing the essential functions of the job.

The ban on pre-employment inquiry regarding physical or mental handicaps is required under the HEW standards for the development of Federal agency section 504 regulations. See 45 CFR 85.55, 43 FR 2132, 2138 (January 13, 1978). Its purpose is to insure that job decisions are not infected with non-job related considerations. For example, an applicant for the position of police officer completes the application process, the written examination, and the oral interview satisfactorily and is offered the position conditioned on the successful completion of a medical examination. The medical exam reveals that the applicant has a history of epilepsy. At this point the police department must make a decision whether the behavioral manifestations of the applicant's particular handicap would prevent the applicant from performing the essential functions of the job.

One virtue of this standard is that it makes it possible to determine whether the reason for not hiring a handicapped person is because of handicap. We also believe that legitimate purposes for obtaining such information are fulfilled as well at this later stage in the hiring process.

The misunderstanding of this section apparent in many comments makes it important to emphasize again that this provision does not prohibit taking job-related conditions into account in making employment decisions, nor does it preclude a recipient from obtaining information as to such conditions. It merely affects the time at which and the manner in which the information may be obtained. (HEW Final Rule, Implementation of Executive Order 11914, 43 FR 2132, 2135, January 13, 1978).

Of course, where pre-employment job-related questions disclose an inability to perform a job as a result of a handicap, a decision not to employ may be made on that basis. Where recipients conduct extensive background security checks for prospective employees, a conditional offer of employment could be made contingent upon successfully passing both a medical examination and background check. The medical examination could occur first and if the applicant did not pass it, there would be no need for the background check. The results of the medical examination must, of course, remain confidential and could not be given to the person conducting the background check.

C. Physical and Other Accessibility to Programs

The subpart prohibits the exclusion of qualified handicapped persons from Federally assisted programs because a

recipient's facilities are not readily accessible or usable. The recipient is not required to have each of its existing facilities or every part of a facility accessible to and usable by handicapped persons. The requirement is that the program, when viewed in its entirety, must be readily accessible to and usable by handicapped persons. Structural changes may be unnecessary where other less costly or burdensome methods may be equally effective. Whatever method is chosen to meet physical accessibility and usability requirements, it is essential that Federally assisted programs be offered to qualified handicapped persons in the most integrated setting appropriate to obtain the full benefits of the program (§ 42.521(b)). (As used below, the term "accessibility" incorporates "usability.")

Physical accessibility is probably the area of greatest concern to recipients because of the perceived economic cost associated with the elimination of such barriers. It has been HEW's experience that its recipients have erroneously exaggerated the actual cost of compliance due, in part, to a misunderstanding of the extent to which structural changes are required under section 504.⁷ The following illustrations may serve to underscore the options available to recipients for moderating the costs of compliance while providing full program accessibility to qualified handicapped persons. These illustrations also serve to alert recipients that attaining program accessibility need not involve the removal of all architectural barriers.

The examples which follow also set forth a number of situations in which recipients are required under this subpart to provide auxiliary aids (§ 42.503(f)) to remove communications barriers that prevent accessibility to Federally assisted programs. These examples are included as the result of a number of comments which recommended that the Department provide additional guidance in this area.

1. *Law Enforcement Agencies.* These agencies include municipal police departments, sheriffs' offices, state highway patrols, regional law enforcement agencies, campus police and fire protection agencies. Such agencies, as recipients of Department assistance, must make the programs they operate readily accessible to the handicapped beneficiaries of the programs (e.g., the general public the law enforcement agency is required to serve). With respect to members of the general public who require police assistance, an initial question regarding program accessibility is, for example, whether a wheelchair user requires physical accessibility to the law enforcement agency to obtain the benefits of the agency's programs. Frequently, requests for assistance are initiated by telephone, and law enforcement assistance is often provided away from the agency's facility. Some law enforcement operations ordinarily require citizens to appear at the law enforcement agency's facility (e.g., obtaining a gun license;

⁷ A Summary of Information On The Costs To All HEW Grantees of Achieving Program Accessibility Under Section 504 Of The Rehabilitation Act, Office of the Secretary, Department of Health, Education and Welfare (July 11, 1979).

viewing a line-up; examining physical evidence). However, with respect to wheelchair users or others having severe mobility-related handicaps, law enforcement agencies could accommodate the physical limitations of such persons by making home visits or visits to alternate accessible sites. Whether such special accommodations in all cases would enable those with severe mobility-related handicaps to participate effectively in the benefits of a law enforcement agency's programs would depend upon the nature of the benefit provided. While the subpart requires that services be provided in the most integrated setting appropriate, that standard has no apparent application where the service provided is essentially personal (one-on-one) rather than general (e.g., educational programs).

Law enforcement agencies should provide for the availability of qualified interpreters (certified, where possible, by a recognized certification agency) to assist the agencies when dealing with hearing-impaired persons. Where the hearing-impaired person uses American Sign Language for communication, the term "qualified interpreter" would mean an interpreter skilled in communicating in American Sign Language. It is the responsibility of the law enforcement agency to determine whether the hearing impaired person uses American Sign Language or Signed English to communicate.

If a hearing-impaired person is arrested, the arresting officer's *Miranda** warning should be communicated to the arrestee on a printed form approved for such use by the law enforcement agency where there is no qualified interpreter immediately available and communication is otherwise inadequate. The form should also advise the arrestee that the law enforcement agency has an obligation under Federal law to offer an interpreter to the arrestee without cost and that the agency will defer interrogation pending the appearance of an interpreter.

Law enforcement agencies are also required to install TTY's or equivalent mechanisms (as the technology advances) to enable persons with hearing and speaking impairments to communicate effectively with such agencies. Law enforcement agencies may be hooked up to a central TTY number shared by a number of public agencies if experience shows that this procedure does not materially delay the transmittal of emergency communications to the agencies.

2. Detention and Correctional Agencies and Facilities. These agencies include jails, prisons, reformatories and training schools, work camps, reception and diagnostic centers, pre-release and work release facilities, and community-based facilities. Where local or State policy prohibits the detention or incarceration of wheelchair users, no structural modification to detention or correctional facilities to accommodate wheelchair users is required. Where there is no such exclusionary policy, structural modifications may be unnecessary where alternate accessible facilities are available (e.g., short term detention in the prisoner's home or at a medical facility). Where local

policy precludes alternate detention facilities, a detention agency would be required to make structural modifications to accommodate detainees or prisoners in wheelchairs. In such circumstances, however, not every detention facility of the agency would have to become accessible. Only a sufficient number of detention cells need be accessible to wheelchair users as can be reasonably expected to be detained based on the agency's prior experience. A different problem arises, however, when accessibility requirements are imposed on small, independently operated community based facilities used, for example, for the placement of juveniles in a home setting. A metropolitan area may have a number of such homes. Each such home receiving assistance from the Department with fewer than fifteen employees is not required to be accessible to handicapped persons as long as a sufficient number of homes are accessible in the service area. If a home, after consultation with the handicapped person concerned, determines that its facilities are not accessible to such person because of the person's handicapping condition, it is the responsibility of the home to locate an accessible home providing equivalent services (§ 42.522(c)).

All detention and correctional agencies must provide accessibility for handicapped visitors (e.g., accessible visiting rooms, restrooms) since the prisoner's right to receive visitors is an element of the program administered by the agencies. Where a facility's visitation area is inaccessible to the handicapped, a detention or correctional agency has the option to (a) house the prisoner in a facility which is accessible to handicapped visitors, (b) move the prisoner to an alternate, accessible area either within or outside the facility for visits from wheelchair users, (c) make structural modifications to make the visitation area accessible. It should be kept in mind that the benefit provided is the right to visit rather than the right to visit in any particular area.

Facilities available to all inmates or detainees, such as classrooms, infirmary, laundry, dining areas, recreation areas, work areas, and chapels, must be readily accessible to any handicapped person who is confined to that facility. Beyond insuring the physical accessibility of facilities, detention and correctional agencies must insure that their programs and activities are accessible to handicapped persons. For example, correctional agencies should provide for the availability of qualified interpreters (certified, where possible, by a recognized certification agency) to enable hearing impaired inmates to participate on an equal basis with nonhandicapped inmates in the rehabilitation programs offered by the correctional agencies (e.g., educational programs).

Correctional officials should take into account any handicaps which inmates may have in classifying them. In making housing and program assignments, such officials must be mindful of the vulnerability of some handicapped inmates to physical and other abuse by other inmates. The existence of a handicap alone should not, however, be the basis for segregation of such inmates in institutions or any part thereof where other

arrangements can be made to satisfy safety, security and other needs of the handicapped inmate.

3. Court Agencies. These agencies include State and local court systems. Wheelchair users may participate in court trials as judges, jurors, plaintiffs, defendants, witnesses or be present as spectators. Full accessibility is required for such participants.

Where a county has but one courtroom situated on the third floor of a county courthouse having no elevator, and where one of the participants in a trial is a wheelchair user, the court has the following options: (a) moving the court, for the duration of the trial, to accessible quarters in or outside of the courthouse; (b) moving the court permanently to existing accessible quarters; or (c) making those structural modifications in the existing courtroom necessary to provide accessibility to the handicapped participant.

In a large court system, where there are numerous courtrooms, cases involving wheelchair users can be assigned to a courtroom that has been made fully accessible. There is no requirement that all courtrooms be made fully accessible, although it would appear that areas of all courtrooms set aside for the general public should be readily accessible to wheelchair users.

Court systems receiving Federal financial assistance shall provide for the availability of qualified interpreters for civil and criminal court proceedings involving persons with hearing or speaking impairments. (Where a recipient has an obligation to provide qualified interpreters under this subpart the recipient has the corresponding responsibility to pay for the services of the interpreter).

Where the courts provide specialized assistance with respect to court proceedings, the courts are required to insure that handicapped persons are able to participate in such assistance on an equal basis with nonhandicapped persons. For example, in cases where the courts appoint counsel for indigents, the courts under this subpart are also required to assign qualified interpreters (certified, where possible, by recognized certification agencies) in cases involving indigent defendants with hearing or speaking impairments to aid the communication between client and attorney. The availability of interpreting services to the indigent defendant would be required for all phases of the preparation and presentation of the defendant's case. The courts may establish some reasonable guidelines on the use of interpreter services that would not adversely affect the ability of the defendant and the defendant's attorney to develop and present the defendant's case. Caution should be exercised that the guidelines reflect the requirement of section 504 and this subpart that handicapped persons received access to programs receiving Federal financial assistance equal to that of nonhandicapped persons.

While handicapped participants in trials may require appropriate auxiliary aids depending on the nature of the handicap, courts would not be required to provide such aids to participants for purposes unconnected with the litigation process. For example,

**Miranda v. Arizona*, 384 U.S. 436 (1966).

where medically necessary, a defendant with a severe heart condition would have the right to have a qualified attendant provided by the court during the defendant's appearance in court or elsewhere pursuant to an order of the court (e.g., a subpoena), but not at the defendant's customary place of residence.

Court witnesses with hearing or speaking impairments have the right, independent of the rights of defendants, to have interpreters available to them for their testimony.

4. Prosecution and Defense Agencies. Prosecution agencies include State attorneys general and district, county and city attorneys. The programs administered by such agencies must be readily accessible to handicapped persons. As with other programs assisted by the Department, such agencies need not make structural changes in the facilities where there are feasible options (e.g., home visits, delivery of services at alternate accessible sites) for providing the full benefits of the program to handicapped beneficiaries.

New facilities and altered portions of existing facilities must be designed and constructed in such manner as to make them readily accessible to handicapped persons if groundbreaking begins after the effective date of this subpart (§ 42.522). It is not necessary that all cells or housing units in new detention and correctional facilities be constructed to accommodate handicapped detainees or inmates. Only a sufficient percentage of the cells or housing units need be accessible and usable by handicapped persons as can reasonably be expected to be incarcerated based on the history of the handicapped detainee or inmate population in the recipient's jurisdiction. If there is a local or State policy not to incarcerate wheelchair users in its institutions, this subpart would not require creation of prison cells accessible to wheelchair users. If, however, a sufficient number of cells or housing units is not available at any particular time to house all handicapped inmates or detainees, it would be a violation of this subpart to place a handicapped person in a cell which is not accessible to such person. In such exceptional circumstances, assignment of aides to assist the handicapped person may suffice to make additional cells usable.

D. Southeastern Community College v. Davis, 442 U.S. 397 (1979).

This subpart requires that (1) employers make reasonable accommodation to the handicaps of qualified handicapped applicants or employees, and that (2) programs be readily accessible to and usable by qualified handicapped persons. These requirements must be read in the light of *Southeastern Community College v. Davis*, 442 U.S. 397 (1979), where the Supreme Court first considered the reach of section 504 of the Rehabilitation Act.

Davis held that section 504 did not require the petitioner college to make fundamental alterations to its registered nurses' training program in order to accommodate the severe hearing loss of respondent who had applied for admission to the program as a student. The Court held that the respondent failed to meet the legitimate and necessary physical

requirements of the program, established by petitioner, and, hence, was not qualified to participate in the program. The Court noted that the section 504 regulations of the Department of Health, Education, and Welfare (45 CFR § 84.3(k)(3) (1978)) reinforced the Court's conclusion that the respondent was not qualified to be a student in petitioner's training program. *Id.* at 406. Section 84.3(k)(3) of Title 45 provides that, as to postsecondary and vocational services, a "qualified handicapped person" means "a or participation in the recipient's educational program or activity." An explanatory note to the HEW regulations defines "technical standards" as "all nonacademic admissions criteria * * * essential to participation in the program in question." 45 CFR Part 84, App. A, at p. 405.

While the HEW section 504 regulations relating to postsecondary education require recipients to modify any academic requirements that might discriminate against qualified handicapped persons and, further, require the provision of educational "auxiliary aids" (e.g., taped texts, interpreters, classroom equipment, readers in libraries) (45 CFR 84.44 (a), (d)) where necessary to avoid discrimination, the Court noted these regulatory provisions did not require fundamental programmatic and personal service adjustments needed by the respondent.

First, the Court noted that petitioner's training program required "the ability to understand speech without reliance on lipreading" to ensure "patient safety during the clinical phase of the program," and that the respondent would require the "close individual attention by a nursing instructor" in order to participate effectively in clinical work. *Id.* at 407, 409. However, the HEW regulation requiring auxiliary aids specifically excludes "attendants, individually prescribed devices, readers for personal use or other study, or other devices or services of a personal nature." 45 CFR 84.44(d)(2). Accordingly, in the Court's view, the law did not require the petitioner to provide respondent with an attendant nursing instructor since, in the context of a clinical program where each student would be required to deal individually with patients, this would have constituted "services of a personal nature." Hence the respondent could not qualify for the clinical segment of the training program and would be confined to taking academic courses only.

Second, academic "modifications" set forth in the HEW regulation include (but are not necessarily limited to):

changes in the length of time permitted for the completion of degree requirements, substitution of specific courses required for the completion of degree requirements, and adaptation of the manner in which specific courses are conducted (45 CFR 84.44).

However, as the Court saw it, such required modifications did not encompass a curricular change which waived effective participation in a critical component of a degree program in registered nursing. "Whatever benefits respondent might realize from such a course of study, she would not receive even a rough equivalent of the training a nursing program normally gives." *Id.* at 410.

While rejecting respondent's gloss on section 504 and HEW's implementing regulations, the Court inferentially upheld the HEW regulation mandating modification in admission criteria for qualified handicapped persons by noting that "situations may arise where a refusal to modify an existing program might become unreasonable and discriminatory." *Id.* at 412-13.

This subpart is consistent with the holding in *Davis* for it prohibits discrimination only against qualified handicapped persons in the Department's Federally assisted programs and activities. Section 42.540(1) defines "qualified handicapped persons" as follows:

- (1) With respect to employment, a handicapped person who, with reasonable accommodation, can perform the essential functions of the job in question.
 - (2) With respect to services, a handicapped person who meets the essential eligibility requirements for the receipt of such services.
- The critical consideration in determining whether a handicapped person qualifies for participation in a program or activity receiving assistance from the Department is whether a particular physical or mental ability is a necessary prerequisite for effective participation, or whether that ability is only said to be necessary because a recipient of Federal funds has not given adequate consideration to the ways in which stated requirements may be modified in order to permit participation by handicapped persons.

E. Procedures

The Department has adopted the Title VI complaint and enforcement procedures for use in implementing section 504 except that OJARS will not be required to obtain the Attorney General's approval before the imposition of any sanctions against a recipient. This is consistent with OJARS' practice in enforcing the civil rights provisions of the Omnibus Crime Control and Safe Streets Act, as amended by the Justice System Improvement Act of 1979, Pub. L. 96-157, sec. 815(c), 93 Stat. 1206.

In conformity with HEW's Policy Interpretations 1 and 2 (43 FR 18631 (May 1, 1978)), the 180-day time limitation for filing complaints (§ 42.107 of this Title) alleging discriminatory acts which occurred prior to the effective date of this subpart will not begin to run until that date (§ 42.530(d)). Further, the Department will investigate alleged discriminatory acts which occurred and ended prior to the effective day of this subpart where it is shown that the language of section 504 of HEW's interagency guidelines (43 FR 2132, January 13, 1978) implementing Executive Order 11914 (41 FR 17871, April 28, 1978) provided sufficient notice that the challenged activity was unlawful (§ 42.530(e)).

As to remedies, section 120(a) of the Rehabilitation Act Amendments of 1978 authorizes the payment of attorneys' fees to the prevailing party "in any action or proceeding to enforce or charge a violation of this title" (Title V). Accordingly, it is clear that there is a private right of action under section 504. "The availability of attorneys' fees should assist in vindicating private rights of action * * * arising under section * * *

504." Sen. Rep. No. 95-890, 95th Cong., 2d Sess. (1978). Cf. *Cannon v. University of Chicago*, 441 U.S. 677 (1979). Nothing in this subpart requires the referral of a complaint against a recipient to the Department for action as a legal prerequisite for filing a lawsuit against the recipient.

The term "recipient" (§ 42.540(e)) in LEAA programs includes State and local governments, Criminal Justice Councils, Local Offices, criminal justice coordinating councils, nonprofit institutions, contractors, under grants and any other recipient of LEAA funds. Recipients in Federal Bureau of Investigation programs include law enforcement agencies serving municipalities, counties or States. Recipients in Federal assistance programs of the National Institute of Corrections of the Bureau of Prisons include States, general units of local government, as well as public and private agencies, educational institutions and organizations and individuals involved in the development, implementation or operation of correctional programs and services. Recipients in Drug Enforcement Administration programs include State and local governments, officials of law enforcement agencies and forensic laboratories. A recipient not only includes a primary recipient (*i.e.*, a recipient which receives Federal financial assistance from a Federal agency directly) but also a second-tier recipient (*i.e.*, a recipient which receives Federal financial assistance through the primary recipient). The term does not include the ultimate beneficiaries of the program (*i.e.*, those for whom the Federal financial assistance is designed to benefit).

The term "Federal financial assistance" (§ 42.540(f)) includes any arrangement by which the Department provides or makes available funds, property, services, or anything of value by way of grants, contracts, loans or cooperative agreements including subgrants and contracts under grants. It does not include licenses, for example, since licenses are not Federal assistance grants, contracts, loans or cooperative agreements. Nor does the term include direct Federal procurement contracts. Procurement contracts are generally used whenever the principal purpose of the transaction is the acquisition by purchase, lease, or barter, of property or services for the direct benefit or use of the Federal Government. Federal assistance contracts, grants, loans and cooperative agreements are used whenever the principal purpose of the transaction is to accomplish a public purpose authorized by Federal statute.

A "program" (§ 42.540(h)) includes any activity or facility receiving Federal financial assistance whether such benefits are provided directly with the aid of Federal financial assistance or with the aid of any non-Federal assistance required to meet the conditions of Federal financial assistance. The term "program" includes activities where payments are made by a Federal agency to ultimate beneficiaries on condition of their participation in a program conducted by a recipient. The receipt of Federal financial assistance by, for example, a law enforcement agency or department of corrections, makes section 504 and this

subpart applicable to all operations of the recipient agency or department although the Federal financial assistance may have been used in only certain of the activities or operations of the agency or department.

Drug and alcohol abuse are "physical or mental impairments" within the meaning of section 7(6) of the Rehabilitation Act of 1973, as amended. Accordingly, drug and alcohol abusers are handicapped under section 504 if their impairment substantially limits one of their major life activities (§ 42.540(k)(2)(i)(C)). "Drug abuse" in this subpart is defined as (1) the *use* of any drug or substance listed by the Department (21 CFR 1308.11) under authority of the Controlled Substances Act (21 U.S.C. 801), as a controlled substance unavailable for prescription, or (2) the *misuse* of any drug or substance listed by the Department (21 CFR 1308.12-15) as a controlled substance available for prescription. Examples of (1) include certain opiates and opiate derivatives (*e.g.*, heroin) and hallucinogenic substances (*e.g.*, marihuana, mescaline, peyote) and depressants (*e.g.*, methaqualone). Examples of (2) include opium, coca leaves, methadone, amphetamines and barbiturates.

While Congress did not specifically address the problems of drug and alcohol abuse in enacting section 504, the committees which considered the Rehabilitation Act of 1973 were made aware of HEW's long-standing practice of treating drug and alcohol abusers as eligible for rehabilitation services under the Vocational Rehabilitation Act. Further, Congress has expressed its concern regarding discrimination against drug and alcohol abusers by providing that a person may not be denied Federal civilian employment or a Federal license solely on the ground of prior drug abuse (Drug Abuse Office and Treatment Act of 1972, 21 U.S.C. 1101, 1180(c)(1) or prior alcohol abuse or alcoholism) (Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, 42 U.S.C. 4541, 4561(c)(1)). These nondiscrimination provisions cover the employment practices of all Federal law enforcement agencies with the exception of the national security agencies (*i.e.*, the Federal Bureau of Investigation, the Central Intelligence Agency and the National Security Agency, and positions designated as sensitive in other agencies for purposes of national security). Of course, section 504 covers present drug and alcohol use as well (*e.g.*, legal methadone maintenance). An individual who is otherwise qualified could not be excluded, for example, from a job in a program receiving Federal financial assistance solely because the applicant's current drug or alcohol use is allegedly a handicapping condition, unless it is shown that such drug and alcohol use impairs the applicant's ability to perform the job in question.

In section 122(a)(6) of the Rehabilitation Act Amendments of 1978, Congress specifically provided that, with respect to employment covered by section 504, the term handicapped individual "does not include any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents such individual from performing the duties of the job in question or whose

employment, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others." This amendment, in effect, made no substantive change in section 504 protections because persons whose current use of drugs and alcohol resulted in such behavioral characteristics would have been disqualified for employment even prior to the amendment. But the amendment does underscore the fact that this subpart does not require employers or program administrators to ignore drug and alcohol abuse in making determinations whether a handicapped individual is qualified for employment or other participation in a Federal assistance program. The subpart holds only that handicapped persons, as well as others, should be assessed on the basis of their behavior. A recipient employer may consider for all applicants, including drug and alcohol abusers, past personnel records, absenteeism, disruptive, abusive or dangerous behavior, violations of the law or work rules, or unsatisfactory work performance. Where such factors are absent, the fact that an individual once abused drugs or alcohol does not permit an employer to assume that a danger to safety would result in employing the person.

This subpart does not preclude a recipient employer from rejecting a handicapped applicant for legitimate reasons other than his or her handicap. For example, a recipient employer is not required to hire as a law enforcement officer a drug abuser who continues to violate laws prohibiting the use, possession or sale of drugs if the rejection is based on the violation of the law and not the handicap.

In the case of past drug abuse, each case must be judged on its own merits. With respect to employment, employers may weigh the following:

- (1) patterns of use;
- (2) kind of drug used;
- (3) for each kind of drug used, the date started and the last date used;
- (4) circumstances at the start of drug use;
- (5) circumstances at the time of discontinuance of drug use;
- (6) nature of treatment and prognosis;
- (7) social behavior and attitude since discontinuance of drug use;
- (8) history of previous rehabilitation efforts.

Many of these same factors would be relevant in assessing the employability of those with records of past alcohol abuse.

Some commentators expressed concern that the Department's discussion of drug and alcohol abuse which accompanies the Department's proposed rule suggested that, unlike other handicapping conditions, the Department would permit pre-employment inquiry into drug and alcohol abuse. That preception is erroneous. Section 42.513 of this subpart generally prohibits a recipient's pre-employment inquiry regarding an applicant's physical or mental handicaps. The same standard is applicable to a recipient's inquiry regarding an applicant's current or past drug or alcohol use or abuse. A recipient, of course, may condition an offer of employment on the results of a medical examination given to all applicants. Once a recipient makes such a conditional offer, inquiry regarding

drug and alcohol use, like any other handicap, may be made as part of the medical examination. If the outcome of the medical examination results in the withdrawal of the offer of employment, it is clear that the reason for not hiring the applicant is because of handicap, real or perceived. Accordingly, the recipient would then be required to justify such action under the relevant provisions of this subpart.

Some commentators were concerned that inquiry into past drug abuse at any stage of the employment process would discourage persons with drug abuse backgrounds from seeking employment and would serve as a basis for employer rejection of such applicants. That possibility, of course, exists for all job applicants with handicapping conditions, and there is no basis for making an exception with respect to drug and alcohol abuse. Further, the listing of the above suggested factors which employers may weigh in this subpart regarding an applicant with a drug use or abuse background is not an attempt by the Department to single out this handicapping condition for more intensive scrutiny than other handicapping conditions, but only an effort to establish useful guidelines in determining the employability of an applicant with a drug use of abuse background. These are the same factors used by Federal agencies in implementing the nondiscrimination provision of the Drug Abuse Office and Treatment Act of 1972 which prohibits the denial of Federal civilian employment solely on the ground of prior drug abuse.

F. Request for Comments

In its Notice of Proposed Rulemaking the Department requested comment on certain issues (44 FR 54957-58). To the extent these matters are not already addressed in the above analysis, they remain under review by the Department.

Appendix C—Department Regulations Under Title VI of the Civil Rights Act of 1964 (28 CFR 42.106-42.110) Which Apply to This Subpart

§ 42.106 Compliance information.

(a) *Cooperation and assistance.* Each responsible Department official shall, to the fullest extent practicable, seek the cooperation of recipients in obtaining compliance with this subpart and shall provide assistance and guidance to recipients to help them comply voluntarily with this subpart.

(b) *Compliance reports.* Each recipient shall keep such records and submit to the responsible Department official or his designee timely, complete, and accurate compliance reports at such times, and in such form and containing such information, as the responsible Department official or his designee may determine to be necessary to enable him to ascertain whether the recipient has complied or is complying with this subpart. In general, recipients should have available for the Department racial and ethnic data showing the extent to which members of minority groups are beneficiaries of federally assisted programs. In the case of any program under which a primary recipient extends Federal financial assistance to any

other recipient or subcontracts with any other person or group, such other recipient shall also submit such compliance reports to the primary recipient as may be necessary to enable the primary recipient to carry out its obligations under this subpart.

(c) *Access to sources of information.* Each recipient shall permit access by the responsible Department official or his designee during normal business hours to such of its books, records, accounts, and other sources of information, and its facilities, as may be pertinent to ascertain compliance with this subpart. Whenever any information required of a recipient is in the exclusive possession of any other agency, institution, or person and that agency, institution, or person fails or refuses to furnish that information, the recipient shall so certify in its report and set forth the efforts which it has made to obtain the information.

(d) *Information to beneficiaries and participants.* Each recipient shall make available to participants, beneficiaries, and other interested persons such information regarding the provisions of this subpart and its applicability to the program under which the recipient receives Federal financial assistance, and make such information available to them in such manner, as the responsible Department official finds necessary to apprise such persons of the protections against discrimination assured them by the Act and this subpart. [Order No. 365-66, 31 FR 10265, July 29, 1966, as amended by Order No. 519-73, 38 FR 17955, July 5, 1973]

§ 42.107 Conduct of investigations

(a) *Periodic compliance reviews.* The responsible Department official or his designee shall from time to time review the practices of recipients to determine whether they are complying with this subpart.

(b) *Complaints.* Any person who believes himself or any specific class of individuals to be subjected to discrimination prohibited by this subpart may by himself or by a representative file with the responsible Department official or his designee a written complaint. A complaint must be filed not later than 180 days from the date of the alleged discrimination, unless the time for filing is extended by the responsible Department official or his designee.

(c) *Investigations.* The responsible Department official or his designee will make a prompt investigation whenever a compliance review, report, complaint, or any other information indicates a possible failure to comply with this subpart. The investigation should include, whenever appropriate, a review of the pertinent practices and policies of the recipient, the circumstances under which the possible noncompliance with this subpart occurred, and other factors relevant to a determination as to whether the recipient has failed to comply with this subpart.

(d) *Resolution of matters.* (1) If an investigation pursuant to paragraph (c) of this section indicates a failure to comply with this subpart, the responsible Department official or his designee will so inform the recipient and the matter will be resolved by informal means whenever possible. If it has been determined that the matter cannot be

resolved by informal means, action will be taken as provided for in § 42.108.

(2) If an investigation does not warrant action pursuant to paragraph (d)(1) of this section, the responsible Department official or his designee will so inform the recipient and the complainant, if any, in writing.

(e) *Intimidatory or retaliatory acts prohibited.* No recipient or other person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by section 601 of the Act or this subpart, or because he has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this subpart. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purpose of this subpart, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

(Order No. 368-66, 31 FR 10265, July 29, 1966, as amended by Order No. 519-73, 38 FR 17955, July 5, 1973)

§ 42.108 Procedure for effecting compliance.

(a) *General.* If there appears to be a failure or threatened failure to comply with this subpart and if the noncompliance or threatened noncompliance cannot be corrected by informal means, the responsible Department official may suspend or terminate, or refuse to grant or continue, Federal financial assistance, or use any other means authorized by law, to induce compliance with this subpart. Such other means include, but are not limited to, (1) appropriate proceedings brought by the Department to enforce any rights of the United States under any law of the United States (including other titles of the Act), or any assurance or other contractual undertaking, and (2) any applicable proceeding under State or local law.

(b) *Noncompliance with assurance requirement.* If an applicant or recipient fails or refuses to furnish an assurance required under § 42.105, or fails or refuses to comply with the provisions of the assurance it has furnished, or otherwise fails or refuses to comply with any requirement imposed by or pursuant to Title VI or this subpart, Federal financial assistance may be suspended, terminated, or refused in accordance with the procedures of Title VI and this subpart. The Department shall not be required to provide assistance in such a case during the pendency of administrative proceedings under this subpart, except that the Department will continue assistance during the pendency of such proceedings whenever such assistance is due and payable pursuant to a final commitment made or an application finally approved prior to the effective date of this subpart.

(c) *Termination of or refusal to grant or to continue Federal financial assistance.* No order suspending, terminating, or refusing to grant or continue Federal financial assistance shall become effective until (1) the responsible Department official has advised the applicant or recipient of his failure to comply and has determined that compliance cannot be secured by voluntary means, (2) there has been an express finding on the

record, after opportunity for hearing, of a failure by the applicant or recipient to comply with a requirement imposed by or pursuant to this subpart, (3) the action has been approved by the Attorney General pursuant to § 42.110, and (4) the expiration of 30 days after the Attorney General has filed with the committee of the House and the committee of the Senate having legislative jurisdiction over the program involved, a full written report of the circumstances and the grounds for such action. Any action to suspend or terminate or to refuse to grant or to continue Federal financial assistance shall be limited to the particular political entity, or part thereof, or other applicant or recipient as to whom such a finding has been made and shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found:

(d) *Other means authorized by law.* No action to effect compliance by any other means authorized by law shall be taken until (1) the responsible Department official has determined that compliance cannot be secured by voluntary means, (2) the action has been approved by the Attorney General, and (3) the recipient or other person has been notified of its failure to comply and of the action to be taken to effect compliance.

§ 42.109 Hearings.

(a) *Opportunity for hearing.* Whenever an opportunity for a hearing is required by § 42.108(c), reasonable notice shall be given by registered or certified mail, return receipt requested, to the affected applicant or recipient. That notice shall advise the applicant or recipient of the action proposed to be taken, the specific provision under which the proposed action against it is to be taken, and the matters of fact or law asserted as the basis for that action. The notice shall (1) fix a date, not less than 20 days after the date of such notice, within which the applicant or recipient may request that the responsible Department official schedule the matter for hearing or (2) advise the applicant or recipient that a hearing concerning the matter in question has been scheduled and advise the applicant or recipient of the place and time of that hearing. The time and place so fixed shall be reasonable and shall be subject to change for cause. The complainant, if any, shall be advised of the time and place of the hearing. An applicant or recipient may waive a hearing and submit written information and argument for the record. The failure of an applicant or recipient to request a hearing under this paragraph or to appear at a hearing for which a date has been set shall be deemed to be a waiver of the right to a hearing afforded by section 602 of the Act and § 42.108(c) and consent to the making of a decision on the basis of such information as is available.

(b) *Time and place of hearing.* Hearings shall be held at the offices of the Department in Washington, D.C., at a time fixed by the responsible Department official, unless he determines that the convenience of the applicant or recipient or of the Department requires that another place be selected. Hearings shall be held before the responsible Department official or, at his discretion, before a hearing examiner designated in

accordance with 5 U.S.C. 3105 and 3344 (section 11 of the Administrative Procedure Act).

(c) *Right to counsel.* In all proceedings under this section, the applicant or recipient and the Department shall have the right to be represented by counsel.

(d) *Procedures, evidence, and record.* (1) The hearing, decision, and any administrative review thereof shall be conducted in conformity with 5 U.S.C. 554-557 (sections 5-8 of the Administrative Procedure Act), and in accordance with such rules of procedure as are proper (and not inconsistent with this section) relating to the conduct of the hearing, giving of notices subsequent to those provided for in paragraph (a) of this section, taking of testimony, exhibits, arguments and briefs, requests for findings, and other related matters. Both the Department and the applicant or recipient shall be entitled to introduce all relevant evidence on the issues as stated in the notice for hearing or as determined by the officer conducting the hearing.

(2) Technical rules of evidence shall not apply to hearings conducted pursuant to this subpart, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination shall be applied whenever reasonably necessary by the officer conducting the hearing. The hearing officer may exclude irrelevant, immaterial, or unduly repetitious evidence. All documents and other evidence offered or taken for the record shall be open to examination by the parties and opportunity shall be given to refute facts and arguments advanced on either side of the issues. A transcript shall be made of the oral evidence except to the extent the substance thereof is stipulated for the record. All decisions shall be based upon the hearing record and written findings shall be made.

(e) *Consolidated or joint hearings.* In cases in which the same or related facts are asserted to constitute noncompliance with this subpart with respect to two or more programs to which this subpart applies, or noncompliance with this subpart and the regulations of one or more other Federal Departments or agencies issued under Title VI of the Act, the Attorney General may, by agreement with such other departments or agencies, whenever appropriate, provide for the conduct of consolidated or joint hearings, and for the application to such hearings of rules of procedure not inconsistent with this subpart. Final decisions in such cases, insofar as this subpart is concerned, shall be made in accordance with § 42.110.

[Order No. 365-66, 31 FR 10265, July 29, 1966, as amended by Order No. 519-73, 38 FR 17955, July 5, 1973]

§ 42.110 Decisions and notices.

(a) *Decisions by person other than the responsible Department official.* If the hearing is held by a hearing examiner, such hearing examiner shall either make an initial decision, if so authorized, or certify the entire record, including his recommended findings and proposed decision to the responsible Department official for a final decision and a copy of such initial decision or certification

shall be mailed to the applicant or recipient. Whenever the initial decision is made by the hearing examiner, the applicant of recipient may, within 30 days of the mailing of such notice of initial decision, file with the responsible Department official his exceptions to the initial decision, with his reasons therefor. In the absence of exceptions, the responsible Department official may on his own motion, within 45 days after the initial decision, serve on the applicant or recipient a notice that he will review the decision. Upon filing of such exceptions, or of such notice of review, the responsible Department official shall review the initial decision and issue his own decision thereon including the reasons therefor. In the absence of either exceptions or a notice of review the initial decision shall constitute the final decision of the responsible Department official.

(b) *Decisions on the record or on review by the responsible Department official.*

Whenever a record is certified to the responsible Department official for decision or he reviews the decision of a hearing examiner pursuant to paragraph (a) of this section, or whenever the responsible Department official conducts the hearing the applicant or recipient shall be given a reasonable opportunity to file with him briefs or other written statements of its contentions, and a copy of the final decision of the responsible Department official shall be given in writing to the applicant or recipient and to the complainant, if any.

(c) *Decisions on the record whenever a hearing is waived.* Whenever a hearing is waived pursuant to § 42.109(a), a decision shall be made by the responsible Department official on the record and a copy of such decision shall be given in writing to the applicant or recipient and to the complainant, if any.

(d) *Rulings required.* Each decision of a hearing officer or responsible Department official shall set forth his ruling on each finding, conclusion, or exception presented and shall identify the requirement or requirements imposed by or pursuant to this subpart with which it is found that the applicant or recipient has failed to comply.

(e) *Approval by Attorney General.* Any final decision of a responsible Department official (other than the Attorney General) which provides for the suspension or termination of, or the refusal to grant or continue Federal financial assistance, or the imposition of any other sanction available under this subpart or the Act, shall promptly be transmitted to the Attorney General who may approve such decision, vacate it, or remit or mitigate any sanction imposed.

(f) *Content of orders.* The final decision may provide for suspension or termination of, or refusal to grant or continue, Federal financial assistance, in whole or in part, under the program involved and may contain such terms, conditions, and other provisions as are consistent with and will effectuate the purposes of the Act and this subpart including provisions designed to assure that

no Federal financial assistance will thereafter be extended under such program to the applicant or recipient determined by such decision to be in default in its performance of an assurance given by it pursuant to this subpart or to have otherwise failed to comply with this subpart unless and until it corrects its noncompliance and satisfies the responsible Department official that it will fully comply with this subpart.

(g) *Post-termination proceedings.* (1) An applicant or recipient adversely affected by an order issued under paragraph (f) of this section shall be restored to full eligibility to receive Federal financial assistance if it satisfies the terms and conditions of that order for such eligibility or if it brings itself into compliance with this subpart and provides reasonable assurance that it will fully comply with this subpart.

(2) Any applicant or recipient adversely affected by an order entered pursuant to paragraph (f) of this section may at any time request the responsible Department official to restore fully its eligibility to receive Federal financial assistance. Any such request shall be supported by information showing that the applicant or recipient has met the requirements of paragraph (g)(1) of this section. If the responsible Department official denies any such request, the applicant or recipient may submit a request for a hearing in writing specifying why it believes such official to have been in error. It shall thereupon be given an expeditious hearing with a decision on the record, in accordance with rules of procedure issued by the responsible Department official. The applicant or recipient will be restored to such eligibility if it proves at such a hearing that it satisfied the requirements of paragraph (g)(1) of this section. While proceedings under this paragraph are pending sanctions imposed by the order issued under paragraph (f) of this section shall remain in effect.

(Order No. 365-66, 31 FR 10265 July 29, 1966, as amended by Order No. 519-73, 38 FR 17956, July 5, 1973)

Appendix D—OJARS' Regulations Under the Omnibus Crime Control and Safe Streets Act, as Amended Which Apply to This Subpart (28 CFR 42.205 and 42.206)

§ 42.205 Complaint investigation.

(a) The Administration shall investigate complaints that allege a violation of:

- (1) Section 518(c)(1) of the Crime Control Act;
- (2) Section 262(b) of the Juvenile Justice Act; or
- (3) This subpart.

(b) No complaint will be investigated if it is received more than one year after the date of the alleged discrimination, unless the time for filing is extended by the Administrator for good cause shown.

(c) The Administration shall conduct investigations of complaints as follows:

(1) Within 21 days of receipt of a complaint the Administration shall:

- (i) Ascertain whether it has jurisdiction under paragraphs (a) and (b) of this section;
- (ii) If jurisdiction is found, notify the recipient alleged to be discriminating of its receipt of the complaint; and
- (iii) Initiate the investigation.

(2) The investigation will ordinarily be initiated by a letter requesting data pertinent to the complaint and advising the recipient of:

(i) The nature of the complaint, and with the written consent of the complainant, the identity of the complainant.

(ii) The programs or activities affected by the complaint;

(iii) The opportunity to make, at any time prior to receipt of the Administration's findings, a documentary submission, responding to, rebutting, or denying the allegations made in the complaint; and

(iv) The schedule under which the complaint will be investigated and a determination of compliance or noncompliance made.

Copies of this letter will also be sent to the chief executive of the appropriate unit(s) of government, and to the appropriate SPA.

(3) Within 150 days or, where an onsite investigation is required, within 175 days after the initiation of the investigation, the Administration shall advise the complainant, the recipient, the chief executive(s) of the appropriate unit(s) of government, and the appropriate SPA, of:

- (i) Its preliminary findings;
- (ii) Where appropriate, its recommendations for compliance, and
- (iii) If it is likely that satisfactory resolution of the complaint can be obtained, the opportunity to request the Administration to engage in voluntary compliance negotiations prior to the Administrator's determination of compliance or noncompliance.

(4) If, within 30 days, the Administration's recommendations for compliance are not met, or voluntary compliance is not secured, the matter will be forwarded to the Administrator for a determination of compliance or noncompliance. The determination shall be made no later than 14 days after the conclusion of the 30-day period. If the Administrator makes a determination of noncompliance with section 518(c) of the Crime Control Act, or section 262(b) of the Juvenile Justice Act, the Administration shall institute administrative proceedings pursuant to § 42.210, et. seq.

(5) If the complainant or another party, other than the Attorney General, has filed suit in Federal or State court alleging the same discrimination alleged in a complaint to LEAA, and, during LEAA's investigation, the trial of that suit would be in progress, LEAA will suspend its investigation and monitor the litigation through the court docket and contacts with the complainant. Upon receipt of notice that the court has made a finding of

discrimination within the meaning of § 42.210, the Administration will institute administrative proceedings pursuant to § 42.210, et. seq.

(6) The time limits listed in paragraphs (c)(1) through (c)(5) of this section shall be appropriately adjusted where LEAA requests another Federal agency or another branch of the Department of Justice to act on the complaint. LEAA will monitor the progress of the matter through liaison with the other agency. Where the request to act does not result in timely resolution of the matter, LEAA will institute appropriate proceedings pursuant to this section.

§ 42.206 Compliance reviews.

(a) The Administration shall periodically conduct compliance reviews of selected recipients of LEAA assistance.

(b) The Administration shall seek to review those recipients which appear to have the most serious equal employment opportunity problems, or the greatest disparity in the delivery of services to the white and nonwhite, or male and female communities they serve. Selection for review shall be made on the basis of:

(1) The relative disparity between the percentage of minorities, or women, in the relevant labor market, and the percentage of minorities, or women employed by the recipient;

(2) The percentage of women and minorities in the population receiving project benefits;

(3) The number and nature of discrimination complaints filed against a recipient with LEAA or other Federal agencies;

(4) The scope of the problems revealed by an investigation commenced on the basis of a complaint filed with the Administration against a recipient; and

(5) The amount of assistance provided to the recipient.

(c) Within 15 days after selection of a recipient for review, the Administration shall inform the recipient that it has been selected and will initiate the review. The review will ordinarily be initiated by a letter requesting data pertinent to the review and advising the recipient of:

- (1) The practices to be reviewed;
- (2) The programs or activities affected by the review;
- (3) The opportunity to make, at any time prior to receipt of the Administration's findings, a documentary submission responding to the Administration, explaining validating or otherwise addressing the practices under review; and
- (4) The schedule under which the review will be conducted and a determination of compliance or non-compliance made.

Copies of this letter will also be sent to the chief executive of the appropriate unit(s) of government, and to the appropriate SPA.

(d) Within 150 days or, where an onsite investigation is required within 175 days after the initiation of the review, the Administration shall advise the recipient, the chief executives of the appropriate unit(s) of government, and the appropriate SPA, of:

- (1) Its preliminary findings;
- (2) Where appropriate, its recommendations for compliance; and
- (3) The opportunity to request the Administration to engage in voluntary compliance negotiations prior to the Administrator's determination of compliance or non-compliance.

(e) If, within 30 days, the Administration's recommendations for compliance are not met, or voluntary compliance is not secured, the matter will be forwarded to the Administrator for a determination of compliance or non-compliance. The determination shall be made no later than 14 days after the conclusion of the 30-day negotiation period. If the Administrator makes a determination of non-compliance with section 518(c) of the Crime Control Act, or section 262(b) of the Juvenile Justice Act, the Administration shall institute administrative proceedings pursuant to § 42.210, et seq.

[FR Doc. 80-15689 Filed 6-2-80; 8:45 am]

BILLING CODE 4410-01-M

Exhibit 7

U.S. Department of Justice

Civil Rights Division

Disability Rights Section



Americans with Disabilities Act Section 504 of the Rehabilitation Act

ADA/Section 504 Design Guide:

Accessible Cells in Correctional Facilities

Many inmates in State and local correctional facilities have mobility disabilities and need to be housed in accessible cells. Yet, many correctional facilities do not have enough cells that are accessible to inmates with disabilities. Federal laws protect people with disabilities from discrimination by State and local governments, including entities that own or operate correctional facilities. All such entities are covered by the Americans with Disabilities Act of 1990 (ADA), and those that receive Federal funds are also covered by section 504 of the Rehabilitation Act. These laws prohibit discrimination against persons with disabilities, including inmates who use wheelchairs, scooters, walkers, or other mobility devices. While all aspects of law enforcement and correctional services are covered by these laws - including facilities, employment, transportation, and other activities, programs, and services - this guide focuses on the prevention of discrimination against inmates with mobility disabilities through the design of accessible cells.

Security

Accessible cells do not compromise the security of prison personnel. In fact, having accessible cells increases security because they allow inmates with mobility disabilities to function independently, minimizing the need for assistance from guards.

Basic Features

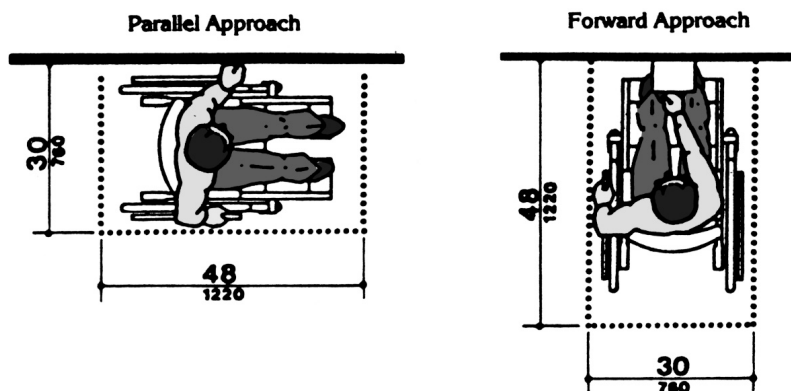
Inmates with disabilities - including those who use wheelchairs - need to be able to enter their cells and move around inside them, using the cells' features without assistance. What makes this possible? Careful planning and design will incorporate elements such as a wider entrance door, adequate clear floor space, appropriate placement and models of fixtures and furniture, and grab bars.

Location or Dispersion of Cells

Dispersing accessible cells throughout a facility ensures that inmates with disabilities are able to be housed with inmates of the same classification levels. Generally, inmates with disabilities who are not ill do not need to be housed in a medical ward.

Furniture and Cell Features

Accessible cells need to contain the same features as other cells for inmates housed at the same classification level. For instance, where other cells contain writing desks, accessible writing desks are needed in accessible cells.



Clear floor spaces for inmates who use mobility devices

Plaintiff's Exhibit 7

Room Layout and General Features

Accessible lavatory with knee and toe space below, faucet controls usable with a loosely closed fist, clear floor space for front approach, and lowered mirror.

Accessible toilet with rear and side grab bars, clear floor space for wheelchair transfer, and an accessible flush valve.

Doors with 32 inches of clear opening width (when a sliding door is fully opened or a hinged door is open 90 degrees). Clear floor space is required in front of the door.

Bed with clear floor space for a side approach next to bed.

Desk with knee and toe space and clear floor space for front approach.

Appropriate clear floor space (shown by dashed lines) is needed adjacent to each cell feature (see page 1 diagrams on clear floor space). As shown in this drawing, the clear floor spaces for each element may overlap. Inmates with a mobility disability should be able to use, and move without obstruction among, the easily accessible features of their cells. There needs to be adequate turning space within the cell -- either a 60-inch-diameter circle or a T-shaped turn area. (See page 5 for diagrams on turning space.)

Note:

Some features shown in this document may be inappropriate for cells where inmate suicide is a concern. See the notes for features specifically designed to minimize suicide risk, while providing accessibility for inmates with mobility disabilities.

Features of an Accessible Toilet

Grab bars: Horizontal grab bars are needed for stabilization and assistance during a transfer from a wheelchair.

Side grab bar: There is a grab bar on the adjacent side wall that is at least 40 inches long and from 33 to 36 inches above the floor.

Toilet paper: If a toilet paper dispenser is provided, it needs to be located in an accessible location and be operable using one hand. If traditional toilet paper holders are not used, loose sheets of toilet paper are acceptable.

Rear grab bar: There is a grab bar behind the toilet that is at least 36 inches long and from 33 to 36 inches above the floor.

Flush valve: is located in reach range and is operable without tight grasping, twisting, or pinching.

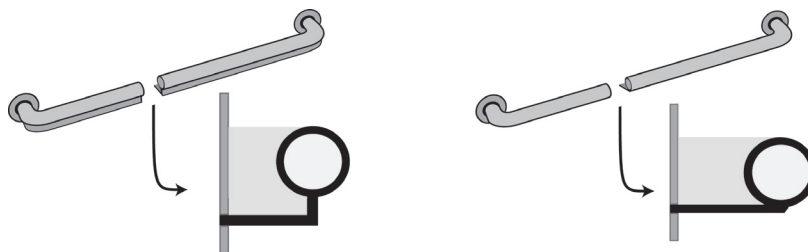
Toilet seat height: The toilet seat needs to be from 17 to 19 inches above the floor to permit transfers to and from wheelchairs.

Toilet centerline: The toilet bowl needs to be centered 18 inches from the side wall, so that inmates with disabilities can use the side grab bar.

Clear floor space: Adequate space is provided to approach the toilet from a variety of wheelchair transfer positions (for example, front, diagonal, or side approaches). Generally, the toilet needs to be placed within a 60-inch-wide by 59-inch-deep clear area of the floor.

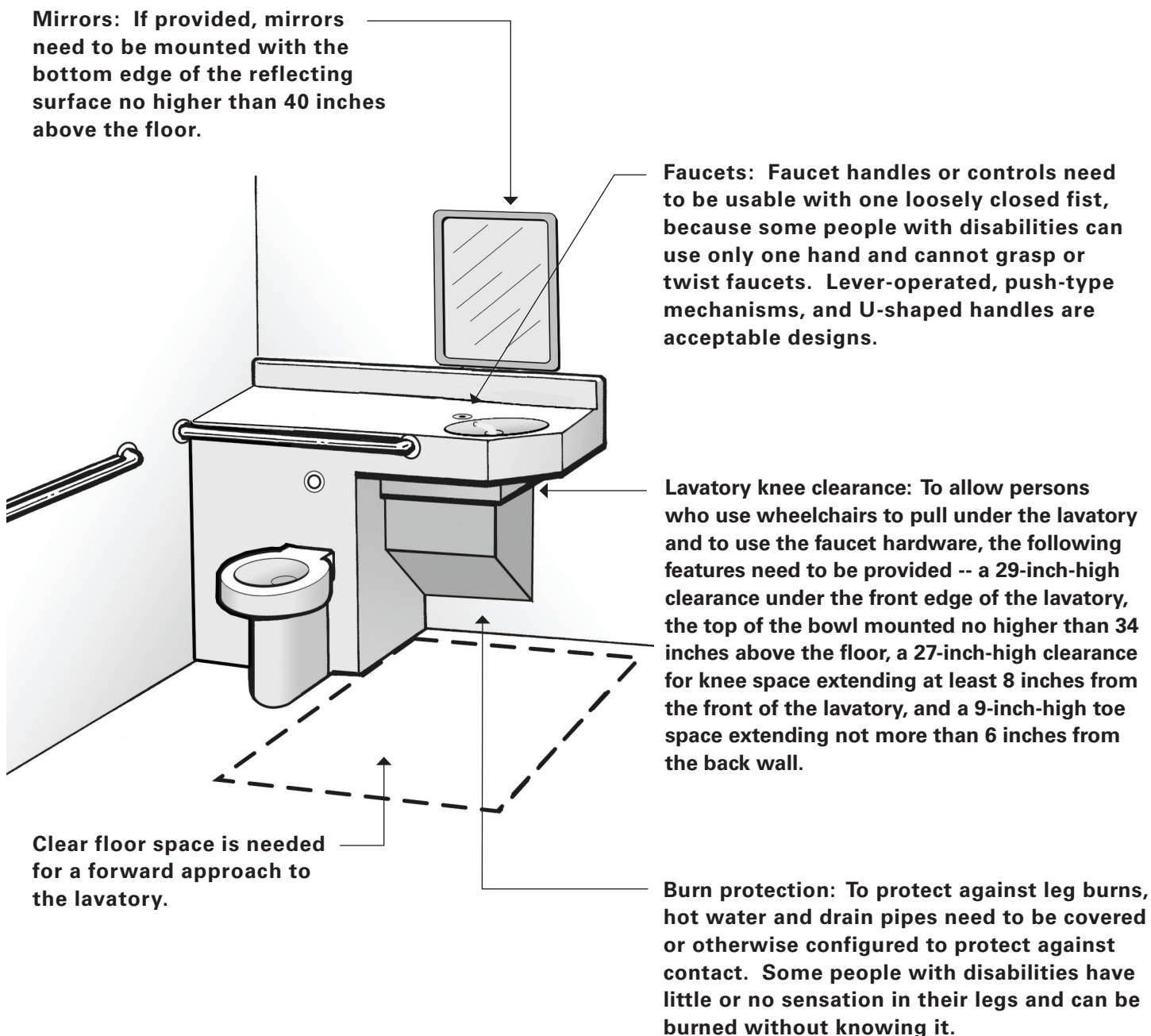
Note:

Grab bars can be designed so they do not increase suicide risk. As shown, there are several ways for grab bars to be designed with adequate gripping surfaces, while ensuring that nothing can be tied onto them.



Profiles of accessible grab bars with suicide prevention feature.

Features of Accessible Lavatories and Mirrors



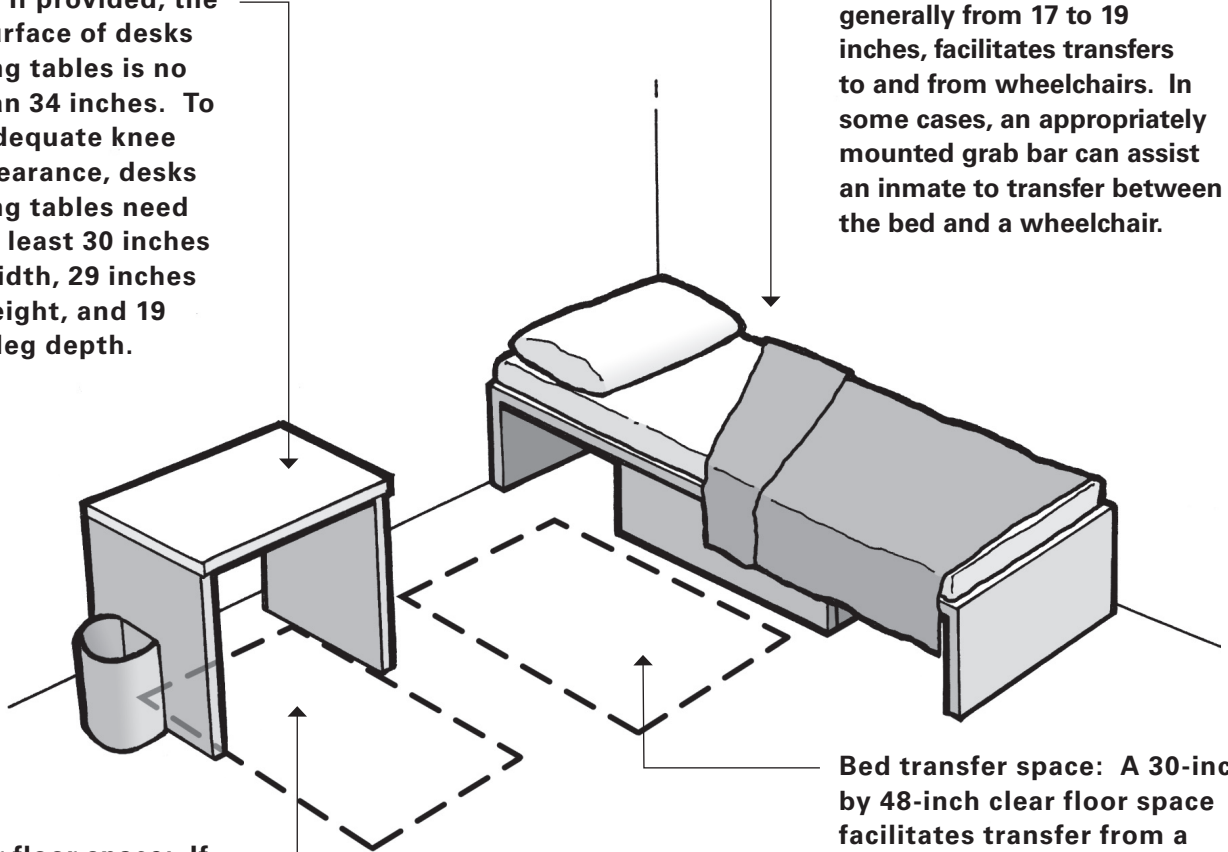
Note:

In every instance, regardless of toilet and lavatory configuration, adequate space needs to be provided for inmates who use wheelchairs to transfer onto and off of the toilet.

Features of Accessible Furniture

Desk size: If provided, the writing surface of desks and writing tables is no higher than 34 inches. To provide adequate knee and leg clearance, desks and writing tables need to have at least 30 inches of knee width, 29 inches of knee height, and 19 inches of leg depth.

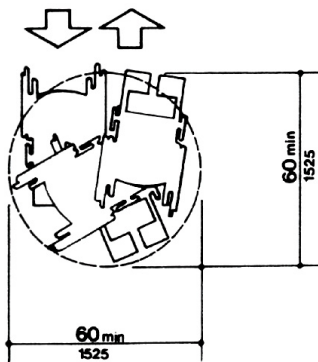
Beds: Providing beds at an appropriate height, generally from 17 to 19 inches, facilitates transfers to and from wheelchairs. In some cases, an appropriately mounted grab bar can assist an inmate to transfer between the bed and a wheelchair.



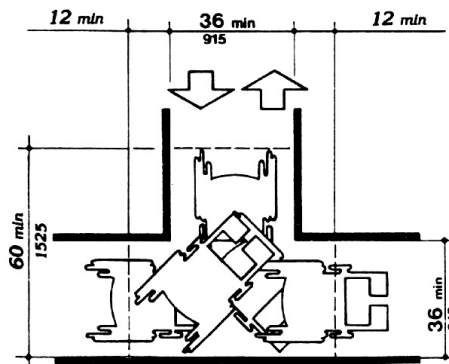
Desk clear floor space: If provided, desks and writing tables need to have a 30-inch by 48-inch clear floor space that extends 19 inches under the desk and any fixed seat needs to be removable.

Bed transfer space: A 30-inch by 48-inch clear floor space facilitates transfer from a wheelchair to the bed.

All furniture placed in accessible cells for the use of inmates with disabilities needs to be accessible.



**60-inch (1525mm)
Diameter Space**



T-Shaped Space for 180° Turns

For more information about the Americans with Disabilities Act (ADA), please visit the Department of Justice's Home Page, www.ada.gov, or call us on the ADA Information Line.

**800-514-0301 (voice)
800-514-0383 (TTY)**

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U.S. Department of Justice
Civil Rights Division
Disability Rights Section



Enforcing the ADA:

A Status Report from the Department of Justice

October 2004 - March 2005

This Status Report covers the ADA activities of the Department of Justice during the fourth quarter (October - December) of 2004 and the first quarter (January - March) of 2005. This report, previous status reports, and a wide range of other ADA information are available through the Department's ADA Home Page on the World Wide Web (see page 14). The symbol (**) indicates that the document is available on the ADA Home Page.

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2005, Issue 1

The Americans with Disabilities Act (ADA) is a comprehensive civil rights law for people with disabilities. The Department of Justice enforces the ADA's requirements in three areas --

Title I: Employment practices by units of State and local government

Title II: Programs, services, and activities of State and local government

Title III: Public accommodations and commercial facilities

I. Enforcement

Through lawsuits and both formal and informal settlement agreements, the Department has achieved greater access for individuals with disabilities in thousands of cases. Under general rules governing lawsuits brought by the Federal Government, the Department of Justice may not file a lawsuit unless it has first unsuccessfully attempted to settle the dispute through negotiations.

A. Litigation

The Department may file lawsuits in Federal court to enforce the ADA and may obtain court orders including compensatory damages and back pay to remedy discrimination. Under title III the Department may also obtain civil penalties of up to \$55,000 for the first violation and \$110,000 for any subsequent violation.

1. Decisions

Third Circuit Bars Private Damages Claim Against State Prison System -- The U.S. Court of Appeals for the Third Circuit ruled in Cochran v. Pinchak that the ADA's abrogation of sovereign immunity allowing private title II

suits against States is unconstitutional with respect to a suit brought by a New Jersey inmate who is legally blind. The complaint, which included a damages claim against the New Jersey Department of Corrections, alleged that the prison system had temporarily denied his access to talking books, a talking watch, a usable lock, and his walking cane. The court ruled that, given the wide latitude granted by the Supreme Court to prison officials to create prison policies and anticipate security issues, abrogation of immunity would be inappropriate in this particular case because the title II accommodation requirements go far beyond any equal protection rights asserted by the plaintiff.

District Court Allows U.S. HIV Lawsuit to Continue Despite Dismissal of Individual Claims -- The U.S. District Court for the Eastern District of Pennsylvania ruled that, even though the individual plaintiff's ADA lawsuit had to be dismissed because it was filed too late under the State statute of limitations, the claims brought by the Department of Justice could continue because the State time limit for filing suit does not apply to the Federal Government. The Department intervened in Smith v. City of

Philadelphia, a lawsuit brought by an individual with HIV who claims that Philadelphia violated the ADA by discriminating against him in the provision of emergency medical services. The Department's complaint alleged that after the plaintiff began experiencing severe chest pain his partner called 9-1-1. Emergency medical technicians arrived on the scene and, after being informed of plaintiff's HIV status, allegedly refused to provide the prehospital care that would have been reasonable and appropriate under the circumstances. The plaintiff alleged that they refused to touch him to assess his condition or to give him physical assistance in getting him out of his home and into the ambulance. He alleged that on the way to the hospital he was verbally harassed and insulted because of his HIV status. The Department's complaint asked the court for an order to prevent the fire department from discriminating against individuals with HIV and for an award of compensatory damages for the complainant.

2. New Lawsuits

The Department initiated or intervened in the following lawsuits.

Title II

Dillworth v. City of Detroit -- The Department moved to intervene in a lawsuit filed in the U.S. District Court for the Eastern District of Michigan, challenging the inaccessibility of Detroit's public transportation system. The Department's complaint alleged that the City of Detroit failed to maintain and repair the wheelchair lifts of the city's fixed-route bus system, denying individuals with disabilities an equal opportunity to benefit from public transportation. The complaint described situations where individuals who use wheelchairs were allegedly forced to wait, often 30 minutes or more, while multiple buses with inoperable lifts passed them by, often leaving them stranded as they attempted

Department Seeks Supreme Court Review of Prison Decision -- The Department asked the Supreme Court to review the Eleventh Circuit decision in Goodman v. Ray, which held that private title II suits against State prisons are barred by sovereign immunity. The Solicitor General argued in the Department's brief that the Court should agree to review the decision in order to resolve the conflict between the Ninth Circuit, which upheld the constitutionality of individual title II suits against State prisons in Phiffer v. Columbia River Correctional and the Eleventh Circuit decision in Goodman, which held such suits unconstitutional. Since the petition for review was filed, the Third Circuit also ruled, as noted under "Decisions," above, that an individual prisoner's claim for damages was barred by sovereign immunity. In its petition, the Department argued that the Eleventh Circuit decision in Goodman was wrong because it was inconsistent with the Supreme Court's decision in Tennessee v. Lane, which upheld the constitutionality of individual title II suits against State court systems. The petition asserted that title II is an appropriate congressional response to the history of constitutional violations against persons with disabilities in prisons. The plaintiff, who has paraplegia and uses a wheelchair, alleged that his cell was too small for him to maneuver his wheelchair, making it impossible for him to access his bed, toilet, and shower without assistance, and that assistance was often denied. He also claimed that the prison's barriers prevented him from using the prison library, attending religious services, and participating in a wide range of counseling, education, and vocational training programs.

to get to work, church, medical appointments, grocery shopping, and numerous other essential destinations. The complaint also alleged that Detroit has approximately 120 buses with lifts that have not been working for more than six months and that the city does not intend to make the needed repairs.

Defending the Constitutionality of Title II --

The Department intervened in four additional lawsuits to defend the constitutionality of title II of the ADA. In Tennessee v. Lane the Supreme Court upheld the constitutionality of title II in cases involving the fundamental right of access to courts. The Department intervened in the following cases to support title II's constitutionality in other areas as indicated --

Courts of Appeals

Roe v. Johnson (2d Circuit)(attorney licensing)

Bill M. v. Nebraska Department of Health and Human Services Finance and Support (8th Circuit)(institutionalization)

Constantine v. Rectors and Visitors of George Mason University (4th Circuit) (law school testing accommodations and retaliation)

District Court

Birdsong v. Perdue (N.D. Georgia) (institutionalization)

3. Amicus Briefs

The Department files briefs in selected ADA cases in which it is not a party in order to guide courts in interpreting the ADA.

Title II

George v. Bay Area Rapid Transit District -- The Department filed an amicus brief in the U.S. Court of Appeals for the Ninth Circuit in

order to defend the Department of Transportation's (DOT) regulations implementing title II of the ADA in public transportation. Plaintiffs filed suit against the Bay Area Rapid Transit District (BART) alleging that public entrances at four BART stations were inaccessible to persons with vision impairments. The U.S. District Court for the Northern District of California ruled that the DOT regulations, as applied to accessible routes, were invalid because they were not adequate to ensure that the required accessible route would be accessible to individuals who are blind or who have low vision. The Department argued on appeal that the DOT regulations were a reasonable interpretation of the ADA because the government carefully considered the needs of people who are blind or who have low vision and issued rules that, taken as a whole, address the obligation of public transportation facilities to provide access to these individuals.

Title III

Spector v. Norwegian Cruise Lines, Ltd -- The Solicitor General filed an amicus brief in the Supreme Court in Spector v. Norwegian Cruise Lines, Ltd., arguing that cruise ships sailing under foreign flags are covered by the ADA when operating in U.S. ports. The plaintiffs, who are individuals with mobility disabilities and their nondisabled companions, filed suit under the ADA alleging that the cruise line discriminated against them on a cruise from Houston, Texas, by imposing a surcharge for an accessible cabin; by failing to remove architectural barriers to ship facilities and services, such as public restrooms, restaurants, swimming pools, and elevators; and by failing to make reasonable modifications in policies needed to include people with disabilities in the ship's emergency evacuation procedures. The Supreme Court is reviewing the decision of the U.S. Court of Appeals for the Fifth Circuit in this case, which held that title III does not

apply to foreign-flag cruise ships even when they voluntarily enter U.S. ports to receive passengers. Relying on general international law principles that domestic law may not be applied to foreign-flag ships without specific evidence of congressional intent to do so, the Fifth Circuit found no indication either in the statutory text or the legislative history that Congress intended title III to apply to foreign-flag cruise ships. This Fifth Circuit decision is in conflict with an earlier decision of the Eleventh Circuit in Stevens v. Premier Cruises, Inc. which agreed with the Department's amicus brief in that case arguing that foreign-flag ships operating in U.S. ports are covered by title III. In the Supreme Court, the Department argued, as it did in the courts of appeals, that the ADA applies to foreign-flag cruise ships when they voluntarily enter U.S. ports to receive passengers and that such coverage does not result in an unlawful extraterritorial application of the statute because the discrimination occurs in U.S. internal waters.

4. Consent Decrees

Some litigation is resolved at the time the suit is filed or afterwards by means of a negotiated consent decree. Consent decrees are monitored and enforced by the Federal court in which they are entered.

Title III

**** U.S. v. Fairview Health Services** -- The United States Attorney's Office for the District of Minnesota entered a consent decree with Fairview Health Services settling a lawsuit alleging that Fairview failed to provide qualified sign language interpreters and other services to deaf patients. Under the agreement, Fairview agreed to hire one or more qualified sign language interpreters who will be available 24 hours a day, seven days a week, to provide effective communication at each of the five Fairview hospitals and agreed

Cinemark Theater Chain Will Provide Comparable Wheelchair Seating in Stadium-Style Movie Theaters -- The Department of Justice and Cinemark USA, Inc., agreed to a consent decree in the U.S. District Court for the Northern District of Ohio that will dramatically improve the moviegoing experience for people who use wheelchairs and for their companions at Cinemark stadium-style movie theaters across the United States. The agreement brings an end to U.S. v. Cinemark USA, Inc., a lawsuit challenging Cinemark's construction of stadium-style movie theaters that failed to provide persons who use wheelchairs with lines of sight comparable to those of the general public. These theaters often required wheelchair users and their companions to sit at the very front of the theaters directly under the screen. Under the consent decree, all future construction of Cinemark theaters will be designed in accordance with plans approved by the Department with wheelchair seating near the middle of the auditorium. In existing theaters, Cinemark agreed to move wheelchair seating farther back from the screen in over 100 auditoriums in 14 existing complexes within the Sixth Circuit (including Ohio, Michigan, Kentucky, Tennessee) and in theaters located in a number of other States as well, including Utah, Illinois, New York, California, and Oregon. In addition, Cinemark will add wheelchair spaces and companion seats in dozens of theaters across the country, allowing persons using wheelchairs and their companions to sit shoulder-to-shoulder next to each other on the same level, like other patrons, and to enjoy unobstructed views.

to pay \$188,000 in damages to four complainants and a \$20,000 civil penalty to the United States. Fairview will also rewrite its hospital policy and procedures to bring them into compliance with the ADA, develop patient and visitor information and notices in forms that are accessible to deaf and hard-of-hearing patients, and conduct comprehensive training of hospital personnel.

B. Formal Settlement Agreements

The Department sometimes resolves cases without filing a lawsuit by means of formal written settlement agreements.

Title II

**** Project Civic Access Agreements Signed by Seven More Communities** -- The Department has signed seven additional agreements under its Project Civic Access initiative, a wide-ranging effort to ensure that cities, counties, towns, and villages throughout the United States comply with the ADA. The new agreements cover --

Sedona, Arizona;
Hutchinson, Kansas;
San Luis Obispo, California;
Cheshire County, New Hampshire;
Washington County, Utah;
Carpinteria, California; and
Missoula County, Montana

The goal of Project Civic Access is to ensure that people with disabilities have an equal opportunity to participate in civic life. Departmental investigators, attorneys, and architects survey State and local government facilities and programs across the country for the purpose of identifying modifications needed to comply with ADA requirements. Depending on the circumstances in each community, the agreements address specific

areas where access can be improved. To date, 111 Project Civic Access agreements have been signed. Each community agreed to take specific steps, depending on local circumstances, to make core government functions more accessible to people with disabilities. The agreements have improved access to many aspects of civic life including, courthouses, libraries, parks, sidewalks, and other facilities, and address a wide range of accessibility issues, such as employment, voting, law enforcement activities, and emergency preparedness and response.

Nevada State Welfare Division, Las Vegas, Nevada -- The Department entered an agreement with the Nevada State Welfare Division to resolve two complaints alleging that the Welfare Division failed to provide qualified interpreters necessary to ensure effective communication with individuals with disabilities in the services, programs, and activities of the Welfare Division. The agreement requires the Welfare Division to establish and maintain a system for providing appropriate auxiliary aids and services, including qualified interpreters, whenever necessary both during regular hours and for after-hours emergencies to secure effective communication between its staff, agency clients, and their companions, as defined in the agreement.

Clackamas County Sheriff's Office, Oregon City, Oregon -- The Department reached an agreement with the Clackamas County Sheriff's Office resolving a complaint that the county violated title II by failing to provide effective communication with an inmate who is deaf. The county agreed to provide appropriate auxiliary aids, including qualified interpreters, and to designate an official to carry out this policy. The county also agreed to provide telephones with volume controls for prisoners with hearing loss and TTYs for prisoners with speech or hearing disabilities

who need them to communicate by telephone. The county will also permit prisoners with hearing disabilities to buy or use visual and tactile alarm clocks whenever other prisoners are permitted to buy or use alarm clocks, to provide televisions with closed captioning features for use by prisoners with hearing disabilities whenever other prisoners are permitted access to television, and to provide hearing aid batteries for prisoners who use hearing aids during the period of their detention.

Title III

Dr. Robila Ashfaq, Irvine, California -- The Department reached an agreement with a California physician, a solo practitioner in family medicine, resolving a complaint alleging unequal treatment for people with disabilities. The complainant, an individual with paraplegia who uses a wheelchair, alleged that at her first office visit her husband helped her onto the examination table and that for subsequent visits over the course of a year she was examined in her wheelchair. When it came time for her annual physical, which would require use of an examination table, she asked the doctor to borrow or purchase an adjustable exam table or a lift to facilitate her transfer to the existing table. The doctor informed her that she no longer wished her to continue as her patient and that she could not provide an accessible table or lift because of budget constraints. Under the settlement, the doctor agreed to provide equal access by purchasing an accessible, adjustable height examination table; pay the complainant \$1000; adopt an ADA nondiscrimination policy; attend training for herself and her staff on the requirements of the ADA; and ensure that, when scheduling an appointment, her staff will ask the patient if he or she will need any special assistance, modification of policy, or auxiliary aid or service at the examination because of a disability.

**** Blue Plate Café, Memphis, Tennessee** -- The U.S. Attorney's Office for the Western District of Tennessee entered a settlement with the owner and operator of two Blue Plate Café restaurants, resolving a complaint that at one of the locations an individual accompanied by a service animal was not allowed to enter the restaurant. Under the agreement the owner will ensure access to individuals with disabilities accompanied by service animals at both restaurants, post its nondiscrimination policy at the entrances and employee areas, give a copy of the policy to each employee, and pay \$3,500 in damages to the complainant and a \$1,000 civil penalty to the U.S. Government.

Natural Bridge, Virginia -- The Department entered into a settlement agreement with A & M Investments, Inc., and Marshall Management, Inc., the owners and operators of the Natural Bridge complex, to ensure that persons with disabilities have equal access to the many attractions and accommodations of historic Natural Bridge, Virginia. The agreement is in response to a complaint that the Natural Bridge Inn and Conference Center did not provide adequate accessible guest-rooms. The agreement requires one fully accessible sleeping room in the 18-room Stonewall Inn, two in the 34-room Cottages, and five additional fully accessible sleeping rooms in the 121-room Natural Bridge Inn. It also requires a number of additional rooms to have notification devices for persons who are deaf or hard of hearing, including visual door knockers, TTY's, and visual alarms. In addition, the agreement requires accessible parking, service counters, ATM's, public telephones, and toilet rooms in the Natural Bridge Gift Shop and Bridge Entrance Building and requires accessibility modifications in a number of other facilities including the wax museum.

C. Other Settlements

The Department resolves numerous cases without litigation or a formal settlement agreement. In some instances, the public accommodation, commercial facility, or State or local government promptly agrees to take the necessary actions to achieve compliance. In others, extensive negotiations are required. Following are some examples of what has been accomplished through informal settlements.

The U.S. Attorneys obtained informal settlements in the following cases --

District of Arizona -- An individual who is deaf complained that an urgent care medical clinic failed to provide sign language interpreters and other auxiliary aids to ensure effective communication. The facility adopted a written effective communication policy, posted notice of the policy in the waiting room, entered into contracts with local interpreting agencies, and provided ADA training to its staff.

Northern District of Iowa -- An individual who uses a motorized wheelchair complained that an Iowa city police department threatened to ticket him for using a motorized wheelchair on city streets. The individual was riding in the street because there were no curb cuts and sidewalks in some parts of the city. The city agreed to refrain from ticketing wheelchair users for riding in streets where no sidewalks or curb ramps exist, and to install curb ramps throughout the city.

Southern District of Mississippi -- An individual who uses a wheelchair complained that the office of a health care provider was inaccessible. The landlord constructed a ramp; provided two new parking spaces with appropriate signage; created an accessible

route from the accessible parking spaces to the office entrance; modified the landing, ramp, and handrails at the office entrance; removed the threshold plate and smoothed the floor surface at the entrance to the restroom; and relocated the toilet flush valve to the left side of the tank.

A wheelchair user complained that an insurance company office failed to remove barriers and to comply with the ADA in making alterations. The insurance office paved the public parking lot at the front of the building and designated two accessible parking spaces, one of which is designated as van accessible; installed a ramp from the accessible parking spaces in the public parking lot to the building's front entrance; eliminated the four-inch change in level at the front door threshold; modified one of the restrooms in the new addition and designated it as a unisex accessible restroom; replaced all exterior and interior door hardware with accessible door hardware; paved the employee parking lot in the rear of the building and designated one van-accessible parking space in that lot; and eliminated the 13" level change from the employee parking lot to the building's rear entrance.

An individual who uses a wheelchair complained that a county board of supervisors did not make a community center that was used as a polling place accessible. The community center subsequently burned down, and the county designated the fire hall as a replacement polling place. The U.S. Attorney's Office reviewed proposed plans to make the fire hall accessible and negotiated additional changes to the facility, including the addition of two accessible parking spaces with an access aisle; the provision of accessible signage for the parking spaces; the installation of a ramp, hand rails, and a landing; and the removal of a protruding object from the accessible route.

Eastern District of Louisiana -- An individual who uses a wheelchair complained that a New Orleans theater was not accessible. The theater agreed to ensure that accessible parking spots are reserved for use by people with disabilities; to maintain accessible routes to all features of the facility; to modify steep curb cuts and outdoor emergency egress ramps in order to have the proper slope; to modify lobby features, such as the condiment island and nearby display shelves, to make them accessible to persons using wheelchairs; to replace armrests on one percent of the aisle seats in each theater with armrests that swivel up and out of the way; to make modifications to the wheelchair accessible bathroom stalls;

and to purchase additional assistive listening devices.

Western District of Missouri -- Two individuals who use wheelchairs complained that a county courthouse was not accessible. The county installed an elevator to provide access to its zoning hearing room and its courtrooms located on the second floor.

Northern District of New York -- An individual complained that the owners of an office building often locked the accessible entrance. The office building owners agreed to keep the accessible entrance unlocked during office hours.

II. Mediation

Under a contract with the Department of Justice, The Key Bridge Foundation receives referrals of complaints under titles II and III for mediation by professional mediators who have been trained in the legal requirements of the ADA. An increasing number of people with disabilities and disability rights organizations are specifically requesting the Department to refer their complaints to mediation. More than 400 professional mediators are available nationwide to mediate ADA cases. Over 75 percent of the cases in which mediation has been completed have been successfully resolved. Following are recent examples of results reached through mediation.

- An individual with a hearing impairment complained that a Missouri hotel was inaccessible. The hotel agreed to purchase six kits containing portable alarms, door and telephone notification devices, and TTYs for use by guests who are deaf or

hard of hearing. The hotel further agreed to reimburse the complainant for 50 percent of her room charges.

- A wheelchair user complained that a Connecticut town allowed restaurants to use public sidewalks to provide outdoor seating, creating barriers for people who use wheelchairs or other mobility devices. The town worked with the restaurant owners and the local chamber of commerce to advise them about the need for unobstructed accessible routes and drafted a local ordinance to provide for and maintain sidewalk accessibility.
- The husband of a wheelchair user complained that a Washington ski tour company arranged a trip that included inaccessible hotel and transportation accommodations. The owner of the company agreed to speak directly to any individual with a disability for whom he was making trip arrangements and to

MEDIATION

confirm, in advance of the travel, that the arrangements would meet the accessibility needs of the traveler. In addition, the tour operator provided the complainant and his family a free week at a condo in the ski area that was the destination of the original trip.

- In North Carolina, an individual with a disability who uses a service animal complained that hotel employees questioned her disability and challenged her right to bring the service animal into the hotel. The hotel provided ADA and sensitivity training to its employees and posted a copy of its ADA nondiscrimination policy at the front desk. The hotel also posted a sign at the hotel entrance welcoming guests with service animals, provided a letter of apology, and paid the complainant \$4,000.
- In Pennsylvania, an individual who is deaf complained that a doctor's office refused to provide sign language interpreter services, and made her pay for an interpreter she needed for an office visit. The office agreed to amend its preappointment letter to patients to include a statement that the practice would provide sign language interpreter services upon request. The office also provided a letter of apology to the complainant, reimbursed her for the full cost of the interpreter services, and paid her \$750 in compensation.
- In New Jersey, a man who is deaf complained that a hotel did not have accessible telephones, doorbells, and alarms and that hotel employees did not use the TTY at the front desk to communicate with guests who are deaf. The hotel directed employees to use the existing TTY at the front desk and provided training on how to use it. The hotel purchased four each of the following devices: TTYs, visual alarms connected to

the building's emergency system, visual notification devices for incoming phone calls and room doorbells, and closed-caption television decoders. The hotel also agreed to provide ADA and sensitivity training to all employees.

- Relatives of a wheelchair user complained that a North Carolina restaurant lacked accessible restroom facilities. With technical assistance from a local independent living center and the local building inspector, the restaurant constructed a unisex accessible restroom, installed one van-accessible and two standard accessible parking spaces, and created an accessible path of travel from the parking area to the restaurant entrance.
- In California, a couple with mobility impairments complained that a cruise line did not honor a free-upgrade promotion because none of the cabins in the "upgrade class" were accessible. The cruise line agreed to offer accessible rooms from a comparable upgrade class and to provide additional training on the ADA to key management staff. It also agreed to provide a free 10-day cruise to the couple as compensation.
- In Georgia, a deaf individual complained that a doctor's office refused to provide her an interpreter for an appointment. The office agreed to provide appropriate auxiliary aids and entered into a contract with an interpreting service. In addition, the office posted signage indicating that assistance will be provided to persons with disabilities upon request.
- In California, an individual with a mobility disability complained that a theater did not have accessible restrooms. The theater adjusted the front doors to both the men's and women's restrooms and installed raised toilet seats. The theater also agreed to provide additional accessible restroom

signage and to run an announcement on the movie screen prior to each film explaining restroom locations. The theater also provided the complainant with complimentary movie tickets.

- In Tennessee, a couple complained that a hotel refused to honor their reservation upon learning that one of them uses a service animal, forcing them to find lodging elsewhere. The hotel agreed to apologize to the couple and to train its staff to carry out the requirements of the ADA. In addition, the hotel reimbursed the couple for the cost of substitute lodging as well for phone calls and postage required to make the change. Finally, the hotel extended an offer for a complimentary room for two nights.
 - A wheelchair user complained that, despite reserving an accessible room and reconfirming it shortly before her arrival, the desk clerk at a California hotel gave her an inaccessible room. The hotel agreed to retrain all desk clerks on procedures for holding guaranteed reservations and terminated the employee who changed the guaranteed reservation. It also agreed to make arrangements and pay for an accessible room at another hotel in the event a reserved accessible room is unavailable. Further, the hotel agreed to hire a trainer with expertise in ADA compliance to conduct an ADA workshop for managers of all properties in the hotel chain at their next annual conference, and to pay the complainant a \$1,500 consulting fee to incorporate her experiences and suggestions in the training. In addition, the hotel paid \$7,500 to the complainant for her suffering and embarrassment.
 - A wheelchair user in Florida complained that a cinema complex with ten movie theaters did not provide accessible seating or doors in the individual theaters and failed to provide accessible restrooms.
- The cinema removed existing seats and installed accessible seating in a variety of locations within each theater and signage to identify the location of the accessible seating. The respondent agreed to modify the stalls in both the men's and women's restrooms to make them accessible and to reduce the door opening force on all restroom and auditorium doors.
- A wheelchair user in Washington attended a stadium sporting event and complained that standing patrons were crowding the accessible seating area from behind and that vendors were using the accessible seating area as a walkway between seating sections and as a place to store the items they were selling. The stadium agreed to train ushers to keep space behind accessible seating areas clear and to instruct vendors to use alternate paths between seating sections and not to store their goods in accessible seating areas. In addition, the stadium agreed to allow the complainant to buy a preferred seating package, including accessible seats, for fewer games than is normally required.
 - In Massachusetts, an individual with a mobility impairment complained that a public golf course's policies excluded people with disabilities unnecessarily by restricting cart access to certain parts of the course. The golf course agreed to modify the existing policy and developed a written policy providing persons with mobility disabilities access by golf cart to specified areas otherwise off limits. The respondent also apologized to the complainant and offered him a pass for a complimentary round of golf.
 - In Florida, a wheelchair user complained that he had requested an accessible room at a hotel but did not receive one at check-in. The hotel agreed to make several changes to its reservations policy to ensure that guests requesting accessible rooms

actually receive them. Individuals making reservations with the hotel who request an accessible room will be offered a “personal planning” follow-up contact to provide detailed information about the accessible features at the hotel and provide an opportunity for guests to relate any additional specific requests. Any additional information from “personal planning” follow-ups will be conveyed to check-in staff.

- A deaf couple in Nevada complained that a health care provider in a remote area did not provide a sign language interpreter for an appointment. The doctor agreed to provide interpreters when requested and the parties worked together to identify potential interpreters in the area. In addition, the doctor agreed to write a letter to all the other medical practitioners in the area about how to provide effective communication to persons who are deaf and hard of hearing and including contact information for local interpreters.

- In Texas, a wheelchair user and her young daughter complained that although they had reserved an accessible room, there appeared to be no accessible features at the hotel when they arrived. The hotel sent a written apology to the daughter and reimbursed the mother \$700 for expenses incurred in finding alternative lodging. The hotel modified four guestrooms to make them accessible. Three additional rooms were added to the capital plan to be rebuilt with roll-in showers. In addition, the hotel modified the ballroom to make it accessible, including installation of a vertical wheelchair lift between two levels and lowering a section of the bar to make it accessible. The hotel also gutted and rebuilt restrooms in the lobby and sixth floor ballroom to be accessible and provided all staff members with training on the requirements of the ADA.

III. Certification of State and Local Accessibility Requirements

The ADA requires that newly constructed or altered places of public accommodation and commercial facilities comply with title III of the ADA, including the ADA Standards for Accessible Design (ADA Standards). The Justice Department is authorized to certify that State and local accessibility requirements, which are often established through building codes, meet or exceed the ADA’s accessibility requirements. In any lawsuit that might be brought, an entity that complies with a certified State or local code can offer that compliance as rebuttable evidence of compliance with the ADA.

In implementing its certification authority, the Department works closely with State and local officials, providing, as needed, detailed technical assistance to facilitate efforts to bring those accessibility requirements into accord with the ADA Standards. In addition, the Department responds to requests from private entities for review of the accessibility provisions of model codes and standards, and provides informal guidance regarding the extent to which they are consistent with the minimum accessibility requirements of the ADA.

CERTIFICATION

The States of Texas, Maine, Florida and Maryland currently have accessibility codes certified by the Department of Justice. The State of Washington recently implemented new accessibility requirements that replace the accessibility code certified previously by the Department. Requests from the States of California, Indiana, New Jersey, North Carolina and Utah for certification are pending before the Department. Recent certification-related activity includes --

North Carolina -- North Carolina officials were notified of the Department's preliminary determination of equivalency for the North Carolina Accessibility Code (NCAC). Prior to making a final determination regarding the NCAC, the Department will publish notices in the Federal Register of the preliminary determination of equivalency, and request comments in writing and at informal public hearings in North Carolina and Washington, D.C. After considering all of the comments and consulting with the U.S. Access Board, the Department will issue a final determination for the NCAC and publish a notice of the final determination in the Federal Register.

Utah -- The Division received a request for certification of Utah's newly adopted accessibility requirements for public accommodations and commercial facilities. This request updated and supplemented the State's pending request for certification review, which was based upon accessibility requirements in effect in Utah as of August 2003. In 2004 the State revised its accessibility code and conducted a public hearing in January 2005 regarding the State's intention to request ADA certification for the new code.

Michigan -- The Division received a request from Michigan for technical assistance in evaluating the consistency of the current Michigan accessibility code with the ADA's new construction and alterations requirements for public accommodations and commercial facilities. Michigan officials plan to utilize the Department's technical assistance in preparing a future request for certification for Michigan's accessibility code.

Model Code Organization -- The Division received a request from the International Code Council (ICC) for technical guidance regarding the extent to which the model accessibility code provisions of the 2003 edition of the International Building Code (IBC) are consistent with the new construction and alterations requirements of title III of the ADA.

IV. Technical Assistance

The ADA requires the Department of Justice to provide technical assistance to businesses, State and local governments, and individuals with rights or responsibilities under the law. The Department provides education and technical assistance through a variety of means to encourage voluntary compliance. Our activities include providing direct technical assistance and guidance to the public through our ADA Website, ADA Information Line, and ADA Fax on Demand; developing and disseminating technical assistance materials to the public; undertaking outreach initiatives; and coordinating ADA technical assistance governmentwide.

ADA Website

The Department's ADA Website on the Internet's World Wide Web provides direct access at anytime to ADA information offered by the Department and by other Federal agencies.

The ADA Home Page (www.ada.gov) is the entry point to the website. It provides direct access to --

- ◆ selected ADA legal documents, settlement agreements, and technical assistance letters,
 - ◆ the ADA Business Connection, including ADA Business Briefs in English and Spanish,
 - ◆ an online ordering form for the ADA Technical Assistance CD-ROM,
 - ◆ links to the Department's press releases, and
 - ◆ links to Internet web pages of other Federal agencies and Federal grantees that contain ADA information.
- The ADA Website also provides information about --
- ◆ the toll-free ADA Information Line,
 - ◆ the Department's ADA enforcement activities,
 - ◆ the ADA technical assistance program,
 - ◆ certification of State and local building codes,
 - ◆ proposed changes in ADA regulations and requirements, and
 - ◆ the ADA mediation program.
- ◆ ADA regulations and technical assistance materials in English and Spanish (which may be viewed online or downloaded for later use),
 - ◆ electronic versions of the ADA Standards for Accessible Design, including illustrations and hyperlinked cross-references,

**** ADA Website Adds Two New Videos** -- Two new accessible streaming videos, -- “Ten Small Business Mistakes” and “The ADA Signing Ceremony,” now appear on the ADA Website (www.ada.gov). Available in both open-captioned and audio-described versions, the videos can be viewed easily through either a dial-up or a broadband internet connection. “Ten Small Business Mistakes” identifies common mistakes that small businesses make when trying to comply with the ADA and addresses the importance and value of doing business with 50 million people with disabilities. “The ADA Signing Ceremony” shows the speech delivered by President George H. W. Bush when signing the ADA into law on the White House lawn on July 26, 1990.

**** New Publication Addresses Accessible Cells in Correctional Facilities** -- The Section’s newest technical assistance publication, “ADA/Section 504 Design Guide: Accessible Cells in Correctional Facilities,” provides guidance to the wide range of persons and entities involved in the design of correctional facilities, including law enforcement organizations, wardens and correctional officers, sheriffs, parole and probation officers, architecture firms, construction companies, and plumbing and fixture manufacturers that specialize in the design of justice-related facilities. Copies can be ordered through the ADA Information Line or downloaded from the ADA Website (www.ada.gov).

ADA Information Line

The Department of Justice operates a toll-free ADA Information Line to provide information and publications to the public about the requirements of the ADA. Automated service, which allows callers to order publications by mail or fax, is available 24 hours a day, seven days a week. ADA specialists are available on Monday, Tuesday, Wednesday, and Friday from 9:30 a.m. until 5:30 p.m. and on Thursday from 12:30 p.m. until 5:30 p.m. (Eastern Time). Foreign language service is also available.

To obtain general ADA information, get answers to technical questions, order free ADA materials, or ask about filing a complaint, please call:

800-514-0301 (voice)
800-514-0383 (TTY)

ADA Fax On Demand

The ADA Information Line Fax Delivery Service allows the public to obtain free ADA information by fax 24 hours a day, seven days a week. By calling the number above and following the directions, callers can select from among 34 different ADA technical assistance publications and receive the information, usually within minutes, directly on their fax machines or computer fax/modems. A list of available documents and their code numbers may also be ordered through the ADA Information Line.

Publications and Documents

Copies of the Department’s ADA regulations and publications, including the Technical Assistance Manuals for titles II and III, can be obtained by calling the ADA Information Line, visiting the ADA Home Page, or writing to the address listed below. All materials are available in standard print as well as large

Department Issues Updated Technical Assistance CD -- The Department has produced a new edition of its popular technical assistance CD featuring three recently produced ADA publications -- "Communicating with People Who Are Deaf or Hard of Hearing in Hospital Settings," "Communicating with Guests Who Are Deaf or Hard of Hearing in Hotels, Motels, and Other Places of Transient Lodging," and the "ADA Checklist for Polling Places." These publications, along with updates of other materials, have been added to the collection of ADA documents that were contained in the previous CD, including the Department's ADA regulations, the ADA Standards for Accessible Design, the Title II and Title III Technical Assistance Manuals, a large collection of ADA technical assistance publications, and a complete set of the ADA status reports, "Enforcing the ADA," dating from 1994. From a home page on the CD, users with personal computers can select, view, and print the files in the same manner as from a web site. All publications are provided in WordPerfect and text formats for users who prefer these formats. Most of the publications can also be viewed in Acrobat (PDF) format which looks the same as the original printed version. To order the updated CD online, please go to the ADA Home Page (www.ada.gov) and select the link for the CD. To order by telephone, please call the ADA Information Line, 800-514-0301 (voice) or 800-514-0383 (TTY).

print, Braille, audiotape, or computer disk for persons with disabilities.

U.S. Department of Justice
Civil Rights Division
950 Pennsylvania Avenue, N.W.
Disability Rights Section - NYAV
Washington, D.C. 20530

Some publications are available in foreign languages. For further information please call the ADA Information Line.

Copies of the legal documents and settlement agreements mentioned in this publication can be obtained by writing to --

U.S. Department of Justice
Civil Rights Division
950 Pennsylvania Avenue, N.W.
FOIA Branch, NALC Room 311
Washington, D.C. 20530
Fax: 202-514-6195

Currently, the FOI/PA Branch maintains approximately 10,000 pages of ADA material. The records are available at a cost of \$0.10 per page (first 100 pages free). Please make your requests as specific as possible in order to minimize your costs.

The FOI/PA Branch also provides access to ADA materials on the World Wide Web (www.usdoj.gov). A link to search or visit this website is provided from the ADA Home Page.

V. Other Sources of ADA Information

The **Equal Employment Opportunity Commission** offers technical assistance to the public concerning the employment provisions of title I of the ADA.

ADA publications
800-669-3362 (voice)
800-800-3302 (TTY)

ADA questions
800-669-4000 (voice)
800-669-6820 (TTY)

www.eeoc.gov

The **Federal Communications Commission** offers technical assistance to the public concerning the communication provisions of title IV of the ADA.

ADA publications and questions
888-225-5322 (voice)
888-835-5322 (TTY)

www.fcc.gov/cgb/dro

U.S. Department of Transportation, Federal Transit Administration

ADA Assistance Line for regulations
and complaints
888-446-4511 (voice/relay)
www.fta.dot.gov/ada

The **U.S. Architectural and Transportation Barriers Compliance Board**, or **Access Board**, offers technical assistance to the public on the ADA Accessibility Guidelines.

ADA publications and questions
800-872-2253 (voice)
800-993-2822 (TTY)
www.access-board.gov

The **ADA and IT Technical Assistance Centers** are funded by the U.S. Department of Education through the National Institute on Disability and Rehabilitation Research (NIDRR) in ten regions of the country to provide resources and technical assistance on the ADA.

ADA technical assistance
800-949-4232 (voice & TTY)
www.adata.org

Project ACTION is funded by the U.S. Department of Transportation to provide ADA information and publications on making transportation accessible.

Information on accessible transportation
800-659-6428 (voice/relay)
www.projectaction.org

The **Job Accommodation Network (JAN)** is a free telephone consulting service funded by the U.S. Department of Labor. It provides information and advice to employers and people with disabilities on reasonable accommodation in the workplace.

Information on workplace accommodation
800-526-7234 (voice & TTY)
www.jan.wvu.edu

VI. How to File Complaints

Title I

Complaints about violations of title I (employment) by units of State and local government or by private employers should be filed with the Equal Employment Opportunity Commission. Call 800-669-4000 (voice) or 800-669-6820 (TTY) to reach the field office in your area.

Titles II and III

Complaints about violations of title II by units of State and local government or violations of title III by public accommodations and commercial facilities should be filed with --

U.S. Department of Justice
Civil Rights Division
950 Pennsylvania Avenue, N.W.
Disability Rights Section - NYAV
Washington, D.C. 20530

If you wish your complaint to be considered for referral to the Department's ADA Mediation Program, please mark "Attention: Mediation" on the outside of the envelope.

The Attorney General has determined that publication of this periodical is necessary in the transaction of the public business required by law of the Department of Justice.

Transcript of the Testimony of
MICHAEL GUMM

Date: May 11, 2016

Case: WADE VS. DART

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Fax: 312-853-9705
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Internet: <http://www.toomeyreporting.com/>

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A P P E A R A N C E S :

THE LAW OFFICES OF:
THOMAS G. MORRISSEY

BY: MR. THOMAS G. MORRISSEY
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Appeared on behalf of the
Plaintiff;

THE LAW OFFICES OF:
COOK COUNTY STATE'S ATTORNEY
CIVIL ACTIONS BUREAU

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Appeared on behalf of the
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THE LAW OFFICES OF:
COOK COUNTY STATE'S ATTORNEY
CIVIL ACTIONS BUREAU

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nicholas.cummings@cookcountyil.gov

Appeared on behalf of the
Defendant, Sheriff Thomas
Dart;

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IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

CARL WADE,)
)
Plaintiff,)
)
vs.) No. 15-cv-10644
)
THOMAS DART, Sheriff of)
Cook County, and COOK)
COUNTY, ILLINOIS,)
)
Defendants.)

This is the deposition of MICHAEL GUMM,
called by the Plaintiff for examination, taken
pursuant to the Federal Rules of Civil
Procedure for the United States District Courts
pertaining to the taking of depositions, taken
before PEGGY A. ANDERSON, a Certified Shorthand
Reporter of the State of Illinois, at Daley
Center, Suite 500, Chicago, Illinois, on
May 11, 2016, at 10:30 a.m.

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(WHEREUPON, the witness
was first duly sworn.)

MR. MORRISSEY: This is the
deposition of Michael Gumm taken pursuant
to notice and continued at the State's
Attorney's office at their request that
we're here today.

Mr. Gumm, I'm going to ask you a
series of questions in regards to your
position with the County. I'd ask you to
answer orally so the court reporter can
take down your response; is that
understood?

THE WITNESS: Yes, it is.

WHEREUPON:

MICHAEL GUMM,
called as a witness herein, having been first
duly sworn, was examined and testified as
follows:

D I R E C T E X A M I N A T I O N

BY MR. MORRISSEY:

Q State your full name for the record?

A Michael Gumm, G-u-m-m.

Q What is your current title with the

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Cook County government?

A ADA compliance project director.

Q How long have you been with the Cook
County government?

A Coming up on two years in June.

Q Are you licensed in the state of
Illinois as an architect?

A No.

Q Have you taken any examinations in
the State of Illinois to become licensed?

A No. Since I'm licensed in other
states, I don't have to take the examination
again.

Q Have you sought to become licensed in
the state of Illinois?

A Not yet, no.

(WHEREUPON, Plaintiff's
Exhibit No. 1 was marked
for identification.)

BY MR. MORRISSEY:

Q Showing you what is being marked as
Plaintiff's Exhibit Number 1 --

MR. MORRISSEY: I don't have -- I
have a couple copies. I have one copy,

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actually, if you could share a copy.

BY MR. MORRISSEY:

Q Showing you what's been marked as
Exhibit Number 1, it's a Standard Job
Description for the compliance project
director; do you see that document?

A Yes, I do.

Q Did you apply for that position with
Cook County?

A Yes, I did.

Q Does that Job Summary and Typical
Duties accurately describe your position as the
compliance project director?

A It describes some of the duties that
I have. This was a newly created position; and
since being hired, the project -- My director
told me that they took a stab at what the
requirements would be, but it would be defined
as I went along. So there are some things that
are in here that are, and some things that are
not part of my duties.

Q Let me ask you specifically when we
look at the job summary, it says in part:
Ensures engineering and architectural designs

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of Cook County capital projects are integrated and comply with ADA requirements. Is that part of what you do as the compliance project director?

A For engineering and architectural designs, we hire architects and engineers to provide drawings, but I assure that the ADA requirements are integrated in those.

Q To what extent do you review design drawings for capital projects at the jail and the criminal courthouses in Cook County?

MR. CUMMINGS: Object to the form of the question.

MS. CARROLL: Same.

BY THE WITNESS:

A Can you describe to me what you mean by "review"? I'm not sure exactly what you're asking.

BY MR. MORRISSEY:

Q What I'm asking is what do you do when you review design drawings for capital projects at the jail and the courthouses?

A I look at the drawings and the details for compliance with ADA standards. We

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have ANSI A117.1 and if it's in the city of Chicago, the City of Chicago Accessibility Standard.

Q Do you also look at the 2010 ADA Accessibility?

A That's the ADA, yes, that's part of the ADA.

Q Monitors and evaluate capital improvement projects; develops the scope of work; selects -- I'm sorry, let me rephrase it.

To what extent do you review construction documents for compliance under the ADA?

MR. CUMMINGS: Objection to the form of the question. It's vague in terms of construction documents; but if you can understand what he's asking, you can answer.

BY THE WITNESS:

A Construction documents are those that are developed and issued by our consulting architectural engineers. It's the same documents that you just asked me previously.

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BY MR. MORRISSEY:

Q To what extent do you provide oversight of accessibility components of capital improvements, remodeling and renovation projects at the jail and Cook County?

A What do you mean "to what extent"?

Q All right. The job description states: Oversight of accessibility components of all capital improvements, remodeling and renovation projects. Specifically in regards to the Cook County Jail and the courthouses, to what extent do you oversee the accessibility components of remodeling and renovation projects?

MS. CARROLL: And I'm going to object to this line of questioning in terms of courthouses. There is only one courthouse involved in this particular case.

MR. CUMMINGS: Join in that.

BY THE WITNESS:

A As far as Leighton Criminal Courthouse, I oversee projects, accessibility projects, that are developed by me and answer questions that are proposed to me by Facilities

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Management who may be installing some accessible elements.

BY MR. MORRISSEY:

Q What projects over at Leighton Courthouse are you overseeing?

A I'm overseeing the renovation of the entire holding cell areas in the building.

Q What projects have you or are you overseeing at the Cook County Jail?

A As far as Cermak goes, it is the lower level holding area separation, the installation of floors, an isolation room repadding. I believe that's all for Cermak, yeah.

Q Have you overseen the renovation of Cermak's third floor?

A Describe what you mean by renovation of third floor.

Q Well, since you've joined Cook County, have there been any renovations to Cook County Cermak's third floor?

A No.

Q There have been no renovations?

A There have not been any performed

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1 since I have joined the County.

2 Q Has any work been done to renovate
3 the third floor of Cermak since you began
4 working for Cook County in July of 2014?

5 MR. CUMMINGS: Objection, asked and
6 answered. You just asked the same
7 question.

8 BY THE WITNESS:

9 A Since June of 2014 when I started,
10 there has not been any renovation work to
11 complete during that period of time regarding
12 ADA accessibility.

13 BY MR. MORRISSEY:

14 Q Do you oversee the construction work
15 on any other projects for Cook County?

16 A Yes.

17 Q What other projects have you
18 overseen?

19 A How is that relevant to Cermak or
20 this case?

21 Q Sir, I'm asking you the questions.

22 A And I'm trying to answer the
23 questions regarding --

24 Q All right, answer the question.

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1 MS. CARROLL: And I'll object for the
2 record in terms of it has no importance on
3 this case, but I will let you answer this
4 question.

5 BY THE WITNESS:

6 A Can you repeat it, please?

7 MR. MORRISSEY: Repeat the question.

8 (WHEREUPON, the record
9 was read as requested.)

10 BY THE WITNESS:

11 A Have I overseen? What other
12 projects?

13 BY MR. MORRISSEY:

14 Q Right.

15 MR. CUMMINGS: I'm going to object to
16 the form of the question in terms of vague.
17 Do you mean overall throughout his career
18 or just with Cook County? You can answer.

19 BY THE WITNESS:

20 A There are numerous projects that I
21 have overseen and that I'm currently
22 overseeing.

23 BY MR. MORRISSEY:

24 Q Well, tell me.

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1 A There are ADA projects. There are
2 wireless and wired infrastructure projects.
3 There are recreational facility projects.
4 Those are the types of projects.

5 Q Have you overseen any other
6 courthouse buildings as the ADA compliance
7 director since joining Cook County?

8 MS. CARROLL: And I'm going to object
9 to this line of questioning in terms of I
10 did write a letter saying that this
11 deposition is about the Wade case and not
12 about the Lacy case, about the other
13 courthouses. So whether he's a compliance
14 director, he can answer; but in terms of
15 any specifics, I will object for the record
16 and then have him not answer.

17 MR. MORRISSEY: That's fine.

18 BY MR. MORRISSEY:

19 Q You can answer the question, sir.

20 A My attorney has directed me not to
21 answer that question.

22 Q She has not.

23 A Yes, she has.

24 MS. CARROLL: You can answer if you

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1 have overseen, just not what you've
2 overseen.

3 BY THE WITNESS:

4 A Yes, I have.

5 BY MR. MORRISSEY:

6 Q Have you overseen any other projects
7 at Cook County Jail?

8 MR. CUMMINGS: Objection to the form
9 of the question. If you understand what
10 he's asking, you can answer.

11 BY MR. MORRISSEY:

12 Q Other than what you described in
13 regards to Cermak's lower level, have you
14 overseen or reviewed any ADA projects at the
15 Cook County Jail?

16 A Yes.

17 Q What projects have you overseen or
18 reviewed?

19 A There are buildings other than
20 Cermak, RTU and --

21 Q Such as what?

22 A ADA compliance projects.

23 Q Describe them for me.

24 MS. CARROLL: You know what, again, I

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1 don't know what this has to do with this
2 case. So I'm going to object for the
3 record and later ask that you strike any
4 testimony that is not about this case.

5 MR. CUMMINGS: If we could go off the
6 record for just a second, please.

7 MR. MORRISSEY: No, we're staying on
8 the record.

9 MR. CUMMINGS: No, I have a question
10 I would like to ask off the record. Is
11 that fine?

12 MR. MORRISSEY: Do you want to ask
13 Mr. Gumm off the record?

14 MR. CUMMINGS: No, I want to ask the
15 attorneys off the record.

16 MR. MORRISSEY: Okay.

17 (WHEREUPON, a discussion
18 was had off the record.)

19 BY MR. MORRISSEY:

20 Q You can answer, Mr. Gumm.

21 **A Repeat the question, please.**

22 (WHEREUPON, the record
23 was read as requested.)

24 MR. CUMMINGS: I'm just going to

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1 object to the line of questioning as not
2 being proportionately related to the claims
3 of this particular case.

4 The Plaintiff was out of custody
5 within three or four months of Mr. Gumm
6 coming on. So if you have a project that
7 you oversaw up until October of 2014, feel
8 free to answer; but anything outside of
9 that, I would say it's beyond the scope of
10 this case.

11 BY THE WITNESS:

12 **A It's beyond the scope of this case.**

13 BY MR. MORRISSEY:

14 Q **** Mr. Gumm, you're being deposed.
15 You don't have the opportunity to object. I
16 asked you what projects have you reviewed or
17 overseen at Cook County Jail?

18 **A And my attorney has advised me not to
19 answer any questions that are beyond the scope
20 of this case.**

21 MR. MORRISSEY: Are you advising him
22 not to answer about Cook County Jail?

23 MS. CARROLL: Beyond the scope of
24 this case? Sure.

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1 MR. MORRISSEY: You're going to tell
2 him not to respond to that answer -- to
3 that question?

4 MS. CARROLL: Re-ask the question in
5 an appropriate manner about this case,
6 sure.

7 MR. MORRISSEY: You can repeat the
8 question.

9 (WHEREUPON, the record
10 was read as requested.)

11 BY THE WITNESS:

12 **A Again, my attorney advised me not to
13 answer outside the scope of this case.**

14 MR. MORRISSEY: Are you going to
15 advise him not to answer?

16 MS. CARROLL: It depends on the type
17 of -- That question is extremely vague and
18 overly broad; and I did write you a letter
19 saying that I wanted you to stick to the
20 topics in this case.

21 MR. MORRISSEY: Yesterday, you turned
22 over documents in response to my production
23 request --

24 MS. CARROLL: Correct.

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1 MR. MORRISSEY: -- which included
2 information in regards to the government's,
3 the United States government's, agreement
4 with Cook County to make certain facilities
5 accessible.

6 You also turned over documents
7 which Mr. Gumm apparently signed in regards
8 to the implementation plan in regards to
9 their agreement with the U.S. Department of
10 Justice.

11 Those things are all pertinent
12 and relevant to this lawsuit, and they were
13 turned over by you in response to our
14 discovery request.

15 MS. CARROLL: That is correct.

16 MR. MORRISSEY: So if you are going
17 to now preclude me from asking questions in
18 regards to renovation projects at the Cook
19 County Jail, I'm going to certify the
20 questions and ask the Court to require this
21 gentleman to return and be redeposed and
22 grant us attorneys' fees.

23 MS. CARROLL: You could ask whatever
24 you want as long as it has to do with this

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case. What I turned over was relevant to this case. When you start asking questions that are beyond the scope of this case, because I know you're asking about Lacy and I know you're asking about Clemons and I know you're asking about all your other cases because that's what you do in depositions.

If you want to be more specific, I will have him answer the questions regarding the RTU and Cermak infirmary like I wrote in my letter that that's what he is here for.

MR. MORRISSEY: Well, he has been --

MS. CARROLL: You have deposed him several times.

MR. MORRISSEY: Do you intend to have this gentleman testify as an expert for you in the Wade case?

MS. CARROLL: Right now, he was not disclosed as an expert. We don't have expert testimony. We have only two months to do all --

MR. MORRISSEY: My question is

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simple. Do you intend to allow Mr. -- to present Mr. Gumm as an expert in regards to ADA compliance at the trial?

MS. CARROLL: Can we go off the record?

MR. MORRISSEY: No, we're on the record.

MS. CARROLL: No, I'm not answering your question. I don't have to. I'm not being deposed here.

MR. MORRISSEY: Well, then if you can't answer that, then I should be allowed to ask him about his background.

MR. CUMMINGS: You are not asking questions about background.

MR. MORRISSEY: I certainly am.

MR. CUMMINGS: You're asking about specific projects that he oversaw while he's been employed with Cook County.

MS. CARROLL: Which is a fishing expedition for your other cases.

MR. CUMMINGS: Now, I understand your concern if he is being offered as an expert, which is why I asked for us to go

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off the record and I had that discussion.

My understanding is that this is not an expert deposition. This is a fact deposition for Mr. Wade's case.

MR. MORRISSEY: All right, to the extent that you intend to have Mr. Gumm offer any expert testimony in Wade, I'm going to have to redepose him prior to the trial; is that understood?

MS. CARROLL: Absolutely not.

MR. MORRISSEY: All right, then I would ask you to allow us to ask about his professional background and what he intends to offer in regards to expert testimony if you intend to --

MS. CARROLL: You're not understanding. He is here to talk about the Cermak infirmary and RTU, which is about the Wade case.

Do you want to explain to a judge that you're asking questions that have nothing to do with this case, go ahead. Certify the question and tell the judge it has absolutely nothing to do with this

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case.

MR. MORRISSEY: You're not going to allow him to be redeposed if you intend to call him as an expert; is that your position? Is that your position?

MS. CARROLL: That's not what I'm saying at all, and I'm not saying anything like this on the record. I am saying he can testify about the RTU and he can testify about Cermak infirmary and he can testify about Leighton. That is what he is being presented for, to talk about the ADA regarding those locations. Ask questions about those locations, and he will answer them. I said this in a letter beforehand. I didn't want to have to go through all this like we do every single time when you try to fish for other cases, so go ahead, that's fine. Tell the judge.

MR. MORRISSEY: All right, we'll certify the questions that you won't answer any questions in regards to your involvement in renovation projects at the Cook County Jail.

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MS. CARROLL: That's not what he testified to. That is a misstatement of what he testified to.

BY MR. MORRISSEY:

Q All right, my question is will you tell me what projects in addition to the lower level of Cermak you have participated in at the Cook County Jail in regards to ADA compliance?

MR. CUMMINGS: And I will restate my objection and, for the record, I will read 26 (b) (1) that unless otherwise limited by Court order, the scope in discovery is as follows: The parties may obtain discovery regarding any nonprivileged matter that is relevant to any party's claim or defense and proportional to the needs of the case considering importance of the issues and stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of discovery in resolving the issues and whether the burden or extent of the proposed discovery outweighed its likely benefits.

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Mr. Wade was incarcerated at Cook County Jail from August 16, 2014 until October of 2014. So that is what's at stake in this action.

So, Mr. Gumm, if you have information regarding those dates or even shortly thereafter in 2014, we'd be interested.

BY MR. MORRISSEY:

Q Can you answer the question, Mr. Gumm?

A I have done projects at Cook County Jail other than the facilities that we're talking about in this case, yes.

Q All right, what projects have you done?

A I have done various types of projects.

Q Well, describe them for me, please.

MS. CARROLL: You know what, again, if it doesn't have to do with the Cermak infirmary or Leighton, it has to do with other cases, then I will instruct you not to answer unless it has to do with what's

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at issue in this case.

BY MR. MORRISSEY:

Q Have you ever seen the ramp in Cermak?

MR. CUMMINGS: Objection to the form of the question.

MS. CARROLL: In Cermak?

BY MR. MORRISSEY:

Q Is there a ramp in Cermak?

MR. CUMMINGS: Objection to the form of the question.

BY THE WITNESS:

A What part of Cermak.

BY MR. MORRISSEY:

Q In the lower level of Cermak, is there a ramp?

A To my understanding there's a few of them.

Q Have you participated as the ADA compliance director in regards to any renovations of the ramps in Cermak?

MS. CARROLL: You know what, I'm going to object for the record in the sense that that has nothing to do with this case.

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There are no allegations that he had any issues on ramps in Cermak.

BY MR. MORRISSEY:

Q Well, you can answer.

A I am not aware of any projects that have taken place on the ramps in Cermak.

MS. CARROLL: And I will ask that this not be used in any other cases like you usually do because this answer has nothing to do with this case.

BY MR. MORRISSEY:

Q In August and September of 2014, where were prisoners staged when they went to the Leighton Court Building?

A I believe prisoners --

Q Inmates at the Cook County Jail, when they were awaiting to go to the Leighton Court Building for court appearances, where were they staged?

A Waiting to come in various buildings.

Q All right, what buildings?

A Their housing buildings, to my knowledge.

Q After they were taken from their

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housing assignment, were they brought to Division 5 prior to departing for the Leighton Court Building?

A Some, I believe.

Q Do you know if any prisoners who are housed in the Cook County Jail were not filtered through Division 5 prior to going to the Leighton Courthouse?

A I have no knowledge of that.

Q Was there an area in the basement of Division 5 where prisoners, inmates of the Cook County Jail, were held prior to appearing for court hearings at the Leighton Court Building?

A I believe some were staged there.

Q Where in the basement of Division 5?

A In the basement of Division 5.

Q I asked you where in the basement of Division 5 were inmates of the Cook County Jail staged prior to attending court at Leighton?

A In the bullpens in Division 5 in the basement.

Q Was there a bullpen in August and September of 2014 that was labeled 34/5?

A Yes.

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Q Was that one of the bullpens where prisoners, inmates at the Cook County Jail, were staged prior to appearing at the Leighton Courthouse?

A That's one of them.

Q What other bullpens were used in August and September in the basement of Division 5 for prisoners who were going to the Leighton Courthouse for hearing?

A The bullpens in the same adjacent area.

Q To your knowledge, were wheelchair inmates staged in Bullpen 34/5 in August and September of 2014 prior to attending court at Leighton?

A I have no direct knowledge of it.

Q To your knowledge, was that one of the bullpens used to stage wheelchair-bound detainees in August and September of 2014 prior to them attending court hearings at Leighton?

MR. CUMMINGS: Objection, asked and answered.

BY THE WITNESS:

A At that period of time, I have no

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direct knowledge of the exact locations that wheelchair-bound detainees were staged.

BY MR. MORRISSEY:

Q Do you intend to offer any testimony after August or September of 2014 in regards to renovations at the Leighton Court Building in this case?

MR. CUMMINGS: Objection to the form of the question.

BY THE WITNESS:

A If I'm asked the questions, I guess.

BY MR. MORRISSEY:

Q So you'll be testifying at the trial in regards to future renovation projects at the Cook County Leighton Court Building?

MS. CARROLL: I'm going to object to that question because how does he know what he's going to be testifying to or not?

MR. MORRISSEY: I will ask you.

MS. CARROLL: I'm not being deposed, and I'm not answering on the record for anything.

BY MR. MORRISSEY:

Q So are you aware of any future

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renovation programs at the Leighton Court Building to make the building accessible for wheelchair-bound detainees?

A Yes, I believe I already told you that.

Q What are there -- Has there been any construction since you joined Cook County in June of 2014 to the present in order to make the Leighton Courthouse Building accessible for wheelchair-bound inmates?

MS. CARROLL: I'm going to object to the extent that this has to do with the Lacy case and has absolutely nothing to do with this case. If he wants to talk about what was going on when Wade was there, that's fine; but I don't want you to start to ask questions about Lacy. That's a completely different case.

MR. MORRISSEY: Well, you're not going to allow him to testify in regards to any projects that -- at the Leighton Court Building that have taken place after October of 2014; is that correct?

MR. CUMMINGS: It's a subsequent

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remedial measure, Tom. I mean --

MS. CARROLL: I'm not saying anything on the record. I'm not being deposed here.

BY MR. MORRISSEY:

Q So, Mr. Gumm, what -- Strike that.

MR. CUMMINGS: Can we go off the record for a second, Tom, please?

MR. MORRISSEY: No, we're on the record. We're on the record.

MR. CUMMINGS: I'm asking to talk to you.

MR. MORRISSEY: All right, go ahead.

MR. CUMMINGS: Can we go off the record?

MR. MORRISSEY: Go ahead.

(WHEREUPON, a discussion was had off the record.)

BY MR. MORRISSEY:

Q We're going to certify the questions as follows: **** What design drawings are currently in place for renovating the Leighton Court Building?

MS. CARROLL: And I object because this is directly about the Lacy case. This

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is something that's ongoing in Lacy versus Dart, which is under Judge Gettleman, has nothing to do with Wade who was only in the capacity of the Cook County Department of Corrections for six weeks, only went to Leighton about five times between August and October of 2014; and therefore has no relevance in this case, and I've already told Mr. Morrissey on several occasions that I was presenting him for what happened in the Wade case. That's what Mr. Gumm is for.

MR. MORRISSEY: This is a discovery deposition. I'm going to also ask the question, which if you object, I'm going to certify.

BY MR. MORRISSEY:

Q **** Has any work taken place pursuant to any design drawings for renovation of the Leighton Court Building to make it accessible?

MR. MORRISSEY: Do you object?

MS. CARROLL: Objection, that's a very vague question. I'm not exactly sure

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what you're asking there. Do you mean all over Leighton or do you mean Bullpen 34/5 or what exactly do you mean?

BY MR. MORRISSEY:

Q **** Well, the question pertains to other than Bullpen 34/5, assuming that there have been design drawings presented by an outside architectural firm, has any work taken place to make the Leighton Court Building accessible for prisoners?

MS. CARROLL: And, again, I think you got completely mixed up what the law is and what's going on. This is not the Lacy case. If you want to depose him in Lacy, you can. If Maureen allows it, if the judge allows it, that's up to them. It has nothing to do with me.

MR. MORRISSEY: All right, we're going to certify the question.

MS. CARROLL: But, again, this has nothing to do with the Wade case whatsoever. And, therefore, I think it's an absolutely improper question to ask and I asked you not to go into Lacy questions.

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MR. MORRISSEY: All right, will you -- So you're going to -- I'm going to certify for --

MS. CARROLL: Go ahead.

MR. MORRISSEY: -- purposes of this deposition my questions that pertain to any future renovation projects to make the Leighton Court Building accessible for prisoners, and it's my understanding the Sheriff's attorney and the County's attorney are going to instruct the person not to answer.

MR. CUMMINGS: That's not correct. The Sheriff's attorney can't really instruct anybody not to answer; but the fact of the matter remains that future projects that have not been undertaken are not relevant to this case.

MR. MORRISSEY: All right, is that your position, Jackie, that you're not going to allow the witness to testify to any ongoing future projects to renovate Leighton to make it accessible for handicapped prisoners?

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MS. CARROLL: That misstates a lot but, yes, when it comes to questions that are directly involved in Lacy versus Dart, Judge Gettleman's case, that has to do with the ongoing renovation of Leighton that have absolutely nothing to do with Carl Wade and his six weeks that he was in the CCDOC, I am instructing my client not to answer them for this deposition in the Carl Wade case. So ask the Judge --

MR. MORRISSEY: So we'll certify those questions.

MS. CARROLL: Go ahead and try to explain to the judge why it is at all relevant in this case and why you're not trying to fish for the Lacy case.

(WHEREUPON, Plaintiff's Exhibit No. 2 was marked for identification.)

BY MR. MORRISSEY:

Q I'm showing you what has been marked as Plaintiff's Exhibit Number 2. I would ask you to take a look at that document, please.

MR. CUMMINGS: Which document? You

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don't have enough copies? Oh, it's a Lacy document.

MS. CARROLL: Oh, is this a Lacy document?

BY MR. MORRISSEY:

Q Do you recognize that document as a work order for Bullpen 34/5?

A No, I'm not involved in work orders. This is Facilities Management.

Q Do you recognize that as a document from Facilities Management?

A Yes, it is from Facilities Management.

MR. CUMMINGS: For the record, at the bottom of the document, it's a Sheriff's document actually. It's a document from the Sheriff sent to Facilities Management, but you can go ahead and continue to ask questions about it.

BY MR. MORRISSEY:

Q Is that document related to the installation of ADA handicap grab bars in the Division 5 RCDC?

A It's related to Division 5, yes.

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Q The RCDC, correct, the old RCDC?

A That's what it says here, yes.

Q Is it your understanding that a work order was placed in May of 2014 to add grab bars to Bullpen 34/5?

A I see a date on here of May 6, 2014 at 7:45 a.m.

Q Does that pertain to Bullpen 34/5?

A It says location, Male Bullpen 34.

Q Okay. And that was prior to your beginning work for the County, correct?

A Yes.

(WHEREUPON, Plaintiff's Group Exhibit No. 3 was marked for identification.)

BY MR. MORRISSEY:

Q I'm going to show you, sir, a group exhibit that's marked as Exhibit 3. I would ask you to take a look at it; and if you want to take a moment, we can Xerox it for Mr. Cummings.

MS. CARROLL: Do you only have his copy?

MR. MORRISSEY: I just have -- I told

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you, I wasn't --

MR. CUMMINGS: We know. Is that a document that Jacqueline turned over because I brought my own copy?

MS. CARROLL: And I gave you another copy, too. So what --

MR. MORRISSEY: It may or may not be the documents that Jackie turned over. Why don't we make copies?

MS. CARROLL: Wait a second. These are not anything that I have turned over. So what case is this from?

MR. MORRISSEY: We're not responding.

MS. CARROLL: Okay.

MR. MORRISSEY: It was just part of our Rule 26 disclosures. We'll take a break.

(WHEREUPON, a short break was had.)

BY MR. MORRISSEY:

Q Mr. Gumm, was Bullpen 34/5 altered in 2014 to 2015 to make it ADA compliant?

A They were ADA --

Q Yes or no? Yes or no, was Bullpen

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34/5 altered in -- between 2014 and 2015 to make it ADA compliant?

MS. CARROLL: Objection to the form of the question.

BY THE WITNESS:

A Yes, it was altered and there were ADA elements that were put -- installed in that bullpen to assist with accessibility to the fixtures.

BY MR. MORRISSEY:

Q Turning to Group Exhibit 3, it's a document that --

MS. CARROLL: These are the Lacy documents.

BY MR. MORRISSEY:

Q That is marked CC685, is that a document that you drafted on October 2nd, 2014?

A It has from Michael Gumm, so -- and it has my name at the bottom of the first section of the document.

Q So from Michael Gumm to the point where in that document on CC685 where your ADA compliance director is, you authored that, correct?

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A Yes.

Q And who is Jacob Billis -- Bilski?

A Bilqis Jacobs-El?

Q Yeah.

A She is the director of Facilities Management.

Q When did you inspect Bullpen 34 prior to drafting this memorandum?

A I don't recall the exact date. It was late September of 2014.

MS. CARROLL: I'm going to object to the term memorandum because it's not a memorandum. It's clearly an e-mail, just for the record.

BY MR. MORRISSEY:

Q Now, did you -- Why did you state to make Bullpen 34 compliant, those items, 1 through 7? Why did you make that statement?

A I didn't state to make it bullpen compliance. I said for ADA compliance alterations.

Q Okay.

A That's a different -- There's a difference in that.

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Q What did you mean when you said ADA compliance alterations?

A That means these are elements that we can do to make the lavatory and the toilet accessible.

Q What do you mean by "elements"?

A Elements are grab bars, mirrors, sinks, faucets, toilets, mirrors, paper towel dispensers, dryers, trash cans, their desks, tables, they're individual elements.

Q In order to make it compliant under the ADA?

A In order to provide ADA-compliant elements.

Q Below that, you say Bullpen 31, is that another bullpen down in the RCDC?

A Yes, it's adjacent to 34.

Q You said Bullpen 31 can also become ADA compliant. Now, was your intent in regards to Bullpen 34 to make it ADA compliant?

A The intent was to, as it states in here, to provide ADA-compliant elements.

Q So your intent was not to make Bullpen 34 ADA compliant; is that your

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testimony?

MS. CARROLL: Objection to the form of the question. Misstates his testimony. BY THE WITNESS:

A ADA compliance is not determined upon just the physical features, and I think that you don't fully understand what ADA compliance really means.

BY MR. MORRISSEY:

Q My question is after you took -- after the County took the seven steps that you outlined, was Bullpen 34/5 fully compliant, to your knowledge, with the 2010 standards?

A These elements meet the 2010 standards that I've outlined.

Q Now, you state Bullpen 31 can also become ADA compliant by installing a new combination toilet. The clearance for toilet area, cell doors and path to travel in these bullpens already meet the ADA requirements.

When you use the plural there, did you mean that the clearance space in Bullpen 34/5 for the toilet met ADA requirements?

A It's obvious that the subject of that

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sentence --

Q I'm asking.

A -- or that combination is Bullpen 31.

Q So when you use the plural for
bullpens, you meant only Bullpen 31?

MS. CARROLL: Objection, form.

BY THE WITNESS:

**A The clearances for the toilet area,
cell door and path of travel in these bullpens
already meet. That means both 34 and 31.**

BY MR. MORRISSEY:

Q What clearance space was required
under the 2010 ADA standards for the toilet
area?

MS. CARROLL: Objection to the form
of the question. Do you mean specifically
Bullpen 34/5?

BY MR. MORRISSEY:

Q I'm asking in regards to the 2010 ADA
standards, what clearance was required for
Bullpen 34/5 for the toilet area?

**A 60 inches wide from the side wall and
56 inches from the back wall.**

MR. MORRISSEY: Do we have extra

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copies of this document you gave me today?

MS. CARROLL: I gave you a copy. We
have them. You just tell me what number it
is.

MR. MORRISSEY: It's 71R1. It's
Wade 355.

MS. CARROLL: 355?

MR. MORRISSEY: Can I mark yours,
Jackie?

MS. CARROLL: Sure.

MR. MORRISSEY: I only have one copy.
(WHEREUPON, Plaintiff's
Exhibit No. 3-A was marked
for identification.)

BY MR. MORRISSEY:

Q Showing you what has been marked 3-A.
It's Wade 355. I will ask you to look at that
document and tell me what it purports to
represent.

**A That represents a partial drawing of
the RTU facility, Division 8.**

Q This is not Bullpen 34/5?

**A No, it is not. It says right at the
bottom. It says RTU RCDC Facility, and it's**

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dated 8/11/2011.

Q Okay.

**A And it's from Roula Architects and
Associates.**

Q In your e-mail on October 2nd, you
refer to Section 504 Accessibility Cells in
Correctional Facilities?

A What page are you on.

Q I'm looking at Group Exhibit 3, Bates
Stamp 685.

A Okay.

Q Do you see where you refer to -- you
made an attachment to your e-mail. Do you see
that?

**A Section 504 Accessible Cells in
Correctional Facilities, yes.**

Q Why did you attach that for
Ms. Jacobs?

A For her information.

Q Turning to your attachment to your
e-mail, ADA Section 504, Design Guides, I'd ask
you to look at what's Bates Stamped 689, and
there's a diagram -- There is a notation in
regards to clear floor space on Bates stamp

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689, which is Page 3 of those design guides; do
you see that?

A Yes.

Q And it talks about transfer positions
to toilets; do you see that?

A Yes.

Q As a compliance director for the
County, do you agree that the 2010 standards
for clear space require adequate space to
approach the toilet from a variety of
wheelchair transfer positions including front,
diagonal and side approach?

A Yes.

Q What is a front approach to a toilet?

**A It is where the wheelchair is facing
the toilet head on.**

Q Turning to Page 2 of the design
guidelines, in the bottom right-hand corner,
look at the portion of the Design Guidelines.
Does it discuss appropriate clear floor space;
do you see that?

A Yes, I do.

MR. CUMMINGS: I'm going to object
only because the particular page talks

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1 about cell layout, and we're talking about
2 a bullpen. In any event, you can answer
3 the question.

4 BY MR. MORRISSEY:

5 Q Why do the design guidelines require
6 adequate space for a prisoner or a detainee to
7 turn in a cell?

8 **A Otherwise, they wouldn't be able to**
9 **turn. That's obvious.**

10 Q Do you agree that there must be
11 adequate turning space within a cell which is
12 either a 60-inch diameter circle or a T-shaped
13 turn area?

14 **A Yes.**

15 MR. CUMMINGS: Can we take a break
16 real quick? I need one.

(WHEREUPON, a short
break was had.)

19 BY MR. MORRISSEY:

20 Q Okay. Does the entry area to a cell
21 also have to have adequate turning space?

22 MR. CUMMINGS: Objection to the form
23 of the question.

24 MS. CARROLL: Same. I'm confused by

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1 it.

2 BY THE WITNESS:

3 **A It has to have clear floor space in**
4 **front of the door.**

5 BY MR. MORRISSEY:

6 Q So by "clear floor space," you mean a
7 60-inch diameter?

8 **A No. Clear floor space is separate**
9 **from turning area.**

10 Q Does the Design Guidelines, which are
11 on Page 687 through 691, on Page 691, does it
12 describe clear floor space?

13 **A Yeah, there are different sizes of**
14 **clear floor space.**

15 Q Is there a clear floor space for a
16 bed transfer?

17 **A Yes.**

18 Q And what is that?

19 **A 30 by 48.**

20 THE REPORTER: 30 by 48?

21 THE WITNESS: Yeah, those are in
22 inches.

23 BY MR. MORRISSEY:

24 Q Do the diagrams in Group Exhibit 3 on

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1 Page 691 describe two different turning spaces
2 for wheelchair --

3 **A At the bottom, yes.**

4 Q And those are -- It's either the
5 T-shaped space for a 180-degree turn or the
6 60-inch diameter space, correct?

7 **A Yes.**

8 Q Do the guidelines provide for any
9 other manner of space, clear space for turning?

10 MS. CARROLL: Objection to the form.

11 BY THE WITNESS:

12 **A Typically, those are the two, the two**
13 **turning spaces.**

14 BY MR. MORRISSEY:

15 Q To your knowledge, are there any
16 other turning spaces provided for under the ADA
17 2010 standards?

18 **A That are laid out with dimensions?**
19 **Those are the two standard ones.**

20 Q And why are there design standards
21 for bed transfer space?

22 **A Well, it's to park a wheelchair next**
23 **to it so that the occupant can transfer.**

24 Q And are there also design standards

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1 for desk and writing tables?

2 **A There are clear floor space areas.**

3 Q Is that also described on Group
4 Exhibit 3, Bates Stamp 691?

5 **A For desk and for beds, yes.**

6 Q You're familiar with the 2010
7 standard?

8 **A Yes.**

9 Q ADA standards.

10 **A By the way, this document is -- was a**
11 **pamphlet that was published by the Department**
12 **of Justice in 2004 and issued for federal**
13 **prisons in 2006, and this particular document**
14 **is not part of the 2010 standards. All of the**
15 **dimensions for correctional facilities are**
16 **outlined in the 2010 standards.**

17 Q I'm showing you what's been marked as
18 Plaintiff's Exhibit Number 4 -- I'm sorry. I
19 take that back. I have got the wrong sticker
20 on here.

(WHEREUPON, Plaintiff's
Exhibit No. 4 was marked
for identification.)

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BY MR. MORRISSEY:

Q Showing you what's marked as Plaintiff's Exhibit Number 4, do you recognize that document?

A It is an incomplete copy of the 2010 Standards for Accessible Design.

Q If we look at Exhibit 4, Section 604.31, does it describe the clear space around a water closet?

MR. CUMMINGS: I'm sorry. Can you repeat which --

MS. CARROLL: What page?

THE WITNESS: Page 10.

MR. CUMMINGS: Thank you.

MR. MORRISSEY: On Exhibit 4, page 8.

MS. CARROLL: This is from Lacy?

MR. MORRISSEY: This is the 2010 ADA standards for accessibility. That's what it is.

BY MR. MORRISSEY:

Q Does 604.3.1 apply to toilets or water closet locations?

A I'm sorry. Can you repeat that, please?

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Q You can repeat it, Peggy?

(WHEREUPON, the record was read as requested.)

BY THE WITNESS:

A 604.3.1 talks about the clearance around water closet.

BY MR. MORRISSEY:

Q And do you agree that that's the standard?

A That's what it says here.

Q 60 inches by --

A 56.

Q -- 58? Does it say 58?

A 56 inches. It is actually detailed on page 10, upper left, 60 by 56.

Q I'm looking at page 9. Maybe we're not looking at the same thing.

A I did but there is a line through the 56 where you thought it said 58, and I'm just correcting you by showing you that it says 56 on the diagram.

Q Okay. Now, is it your testimony that what we looked at in 3-A or 3, the ADA/Section 504 Design Guide, Guide for Accessible Cells in

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Correctional Facilities is no longer the applicable standard?

A What I'm saying is that this design guide was issued, published in Two Thousand, I believe, six and it was at the time for federal prisons and jails and that the 2010 standards adopted or added a section for jails and correctional facilities, which outlines it. So this particular document is not a part of it. It is outlined directly in the text of the standard. That's what I'm telling you. In other words, it's the history of the document.

Q So I'm clear, Exhibit 3, the ADA/Section 504 Design Guide are still applicable to clearance space around a toilet?

A The 2010 design standards are applicable.

Q Does the 2010 ADA standard provide for the same clear space around a toilet?

A Yes.

Q Does the 2010 ADA standards still require an adequate approach for a toilet to include a variety of wheelchair transfer positions?

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A Yes.

Q So that would include a front diagonal or side approach?

A Front angled or side approach.

Q And that would be the 2010 ADA standards applied for prisoners in regards to the variety of wheelchair transfer positions?

A Yes.

Q And do the 2010 standards that are outlined in the 504 Design Guide also apply to bed transfer space?

A Yes.

Q And the 2010 ADA standards that we discussed in regards to Exhibit 3 also carry forth the two shaped -- two different spaces for turning?

A Yes.

Q Either the diameter space or the T-shaped space?

A Yes.

Q And do the 2010 ADA standards also provide for desk clearance space in a correctional facility of 30 inches by 48?

A Yes.

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Q Now, when you -- In regards to Bullpen 34/5, did you in -- prior to writing this e-mail on October 2nd, 2014 measure the clearance space for the toilet area in Bullpen 34/5?

A I had not been there prior.

Q You mentioned that prior to drafting this e-mail on October 2nd, 2014 that you inspected Bullpen 34?

A Yes, in late September. Yes.

Q When you inspected it, did you measure for the clearance space in front of the toilet?

A Yes.

Q Why did you do that?

A Towards the end of September.

Q No, why? Why did you do that?

A To see -- There was a fixed wall that's there, a cement filled block wall that is a distance away from the back wall; and I wanted to know what that distance was.

Q When you inspected it in August of -- August or September of 2014, were there any existing grab bars in Bullpen 34/5?

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A Yes.

Q Describe the grab bars when you inspected it in September of 2014?

A There was a 42-inch in length on the side wall and a 36-inch in length on the rear wall.

Q Why did you on October 2nd, 2014 say that in order to make Bullpen 34 compliant, there was a need to install a 42-inch grab bar on the side wall next to the toilet?

A Because that's a standard specification.

Q When you looked at it in September of 2014, it didn't have the standard specifications?

A It had a 42-inch, but it was not installed at the correct height.

Q In September of 2014, was the 36-inch grab bar on the back of the toilet the correct height?

A No.

Q Was the side wall grab bar, was it 18 inches from the center point of the toilet?

A The grab bar doesn't have a specified

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distance from the toilet.

Q Is there a specification in regards to the toilet being 18 inches from the side wall to the center?

A There is a specification for new construction, alterations and renovations, not for existing conditions.

Q In September of 2014, was the center point of the toilet 18 inches from the side wall?

A It was not required to meet that standard.

Q No, the question is not whether it was required --

A Well, you're making --

Q No, my question -- Answer my question. Listen to my question. My question is when you inspected it in September of 2014, was the center point of the toilet 18 inches from the side wall?

A The center point of the toilet on that fixture did not have to meet the 2010 standards for new construction, alterations and renovations.

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Q That wasn't my question. My question is an objective question. When you inspected it at some point in September of 2014, was the center point of the toilet 18 inches from the side wall?

A It did not meet the 2010 standards for alterations.

Q How many inches from the center point of the toilet was the side wall?

A I don't remember.

Q Could it have been more than 20 inches?

A I don't remember.

Q Was it 18 inches?

MR. CUMMINGS: Objection, asked and answered.

MS. CARROLL: Yeah.

BY THE WITNESS:

A I already said it didn't meet the 2010 standards for alterations, new construction or renovation and it's not required to.

BY MR. MORRISSEY:

Q Was the toilet seat 17 to 19 inches?

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A Again, it's not required to meet the standard.

Q What was the height -- What was required under the -- either the 2010 standards or the 1991 standards for a toilet to be ADA compliant?

MR. CUMMINGS: Objection, assumes facts not in evidence.

MS. CARROLL: Compound.

MR. CUMMINGS: Foundation.

BY THE WITNESS:

A There are a lot of measurements to determine whether it meets the standard for new construction, alterations or renovations.

BY MR. MORRISSEY:

Q Let's go back to Exhibit Number 3 for a moment, the design guidelines. If we look at Exhibit 3, Page 3, the guidelines, 689, there's a statement Toilet Seat Height. The toilet seat needs to be from 17 to 19 inches above the floor to permit transfer to and from wheelchairs; do you see that?

A That's what it states, yes.

Q When you inspected Bullpen 34/5, was

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the toilet seat height between 17 inches to 19 inches?

A And what I'm telling you is that the fixtures there were pre-ADA, were not required to meet the 2010 or the '91 standards.

Q My question, you're not answering my question. My question is you went out there sometime in September of 2014 and took measurements, correct?

A Yes.

Q Did you write down your measurements?

A I don't recall if I did or not. I don't remember.

Q Is it your practice as an architect when you inspect an area for ADA compliance to write down your notes from that inspection?

A The word inspect insinuates something other than going out and assessing.

Q When you assess an area as an architect, as the ADA compliance director, do you make notes when you assess an area?

A Sometimes, sometimes not.

Q Do you recall whether you made any notes from your assessment of Bullpen 34/5?

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A I don't recall making any.

Q Was -- You didn't answer my question.

MS. CARROLL: Yes, he did.

BY MR. MORRISSEY:

Q When you went out and assessed Bullpen 34/5 in September of 2014, was the toilet seat height between 17 to 19 inches above the floor?

A I do not recall what the measurement was.

Q To your knowledge, in September of 2014, were wheelchair detainees held in Bullpen 34/5?

A At that time, I don't recall where they were held. I was just starting to understand some of the procedures that the jail had at the time.

Q Was there a mirror when you went out in September of 2014 to assess Bullpen 34/5?

A Yes, there was.

Q Was the mirror 40 inches minimum from the floor?

A I don't recall what the measurement was.

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Q When you went out to assess in September of 2014, did you take measurements in regards to the turning area, turning space, in Bullpen 34/5?

A I measured the clear path space and turning areas.

Q Why would you have measured, made that measurement when you did the assessment?

A To see if there were any obstructions of detainees getting to the intended change of fixtures.

Q Why is it important to do that assessment?

A If they can't get to it, they can't use it. That's why it's important.

Q What standard were you using when you made that assessment?

A The 2010 because that's -- If you're going to make a change, that's what you have to follow.

Q Well, if you made a -- When there was a -- you were altering physically the toilet in Bullpen 34/5, correct?

A I --

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MS. CARROLL: Objection to timeframe.

BY MR. MORRISSEY:

Q In September, October of 2014?

A Yes, we were changing the existing toilet out for a new toilet.

Q When you changed out -- When the County changed out the toilet in 34/5, was it required under the 2010 standard to provide for clear space around the toilet?

A If you were just changing out fixtures and not moving the location of it, no, it's not required because it's a mechanical -- It falls under the mechanical exception.

Q Where in the 2010 ADA standards is that provided for?

A In the 2010 standard.

Q Where? Where specifically?

A I don't have it in front of me, so I can't point it out to you; and what you gave me is incomplete.

Q Do you have -- What type of phone do you have, sir?

MS. CARROLL: Objection, relevance.

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BY MR. MORRISSEY:

Q Do you have access to the internet on your phone?

A Yes.

Q Will you take a moment to pull up the 2010 ADA standards on your internet --

A I would but I do not have my phone with me.

MR. CUMMINGS: I'm sure Patrick has it.

MR. PATRICK MORRISSEY: Here you go.

BY THE WITNESS:

A You are going to want me to flip through this whole thing on this little phone?

Q Yeah, go ahead.

A Good luck.

(WHEREUPON, the phone was tendered back to counsel).

BY THE WITNESS:

A I'm not using that small device.

BY MR. MORRISSEY:

Q When we take a break at lunch, you can look at it?

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MS. CARROLL: How long is this deposition going to last?

MR. CUMMINGS: You never know.

MR. MORRISSEY: There's the answer. Nick gave you the answer.

MR. CUMMINGS: I think I only have the room till 3:00, though, just so you know. I don't think anybody is coming in, though.

MR. MORRISSEY: We can go down on the south side and continue it.

(WHEREUPON, Plaintiff's Exhibit No. 5 was marked for identification.)

BY MR. MORRISSEY:

Q I will show you what has been marked as Exhibit Number 5. I'd ask you to take a look at it for a moment.

MS. CARROLL: This is also the Lacy case.

MR. CUMMINGS: Uh-huh.

BY THE WITNESS:

A Okay.

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BY MR. MORRISSEY:

Q Do you know a Mr. James Banks?

A Yes, I know him.

Q Who is Mr. Banks?

A He is the assistant chief that was responsible for the Leighton Courthouse for the Sheriff's staff.

Q By the way, what documents did you look at today or in the last week or so in regards to accessibility for wheelchair-bound detainees at the Department of Corrections?

A I'm not sure I understand. Are they DOC --

Q Let me rephrase the question.

A Okay.

Q In the last ten days prior to this deposition, did you look at any documents in regards to accessibility issues at the Cook County Jail or at the Leighton Courthouse?

A Are you talking about DOC or ones that I have in my possession or what -- I'm not understanding. I mean, it's really broad.

Q From May 1st to the present, have you reviewed any documents in regards to the Cook

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County jail in your position as the compliance director.

MR. CUMMINGS: I'm going to make an objection. It's vague, foundation, not really proportional to the claims in this case unless you are asking about documents from the time period relevant to this case; but if you understand what he's asking.

BY THE WITNESS:

A Are they documents relevant to this case?

BY MR. MORRISSEY:

Q Well, the question is any documents. Have you looked at any documents --

A I have looked at a lot of documents.

Q -- since May 1st of 2016 to the present in regards to ADA issues at the Cook County Jail?

A I have looked at a lot of documents.

Q What documents in that 11-day time period have you looked at in regards to Cook County Jail's accessible --

A I'm not sure I can sit here and name all the documents that I have looked at.

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Q In the last 11 days?

A Yeah, I have looked at a lot of documents.

Q Such as? Name a few.

A Let's see. I have looked at floor plans.

Q Floor plans of what portion of the Cook County Jail?

A Cermak and Division 8 RTU. I have looked at e-mails that I have supplied to our attorney that have been turned over.

Q What e-mails that you drafted have you looked at in the last ten days?

A What do you mean, "what e-mails"?

Q You said you looked at certain e-mails in regards to --

A Related to this case, yes.

Q In regards to the Wade case?

A Related to the request of documents that were supplied by you that was passed through my attorney.

Q So you in the last ten days went through County records in order to produce records in the Wade case; is that correct?

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MR. CUMMINGS: Objection, misstates the testimony.

MR. MORRISSEY: Well, I'm asking.

MR. CUMMINGS: You can answer.

BY THE WITNESS:

A I went through documents that are accessible to me.

BY MR. MORRISSEY:

Q And do you access records through your e-mail account?

A Yes, I do.

Q How do you access documents -- how did you access documents in your e-mail account which you determined were relevant for accessibility for Mr. Wade in this case?

MR. CUMMINGS: Objection to the form of the question, also misstates testimony. You can answer.

MS. CARROLL: Join.

BY THE WITNESS:

A I was asked to produce e-mails to and from Dave Badali and Marlene Fuentes.

BY MR. MORRISSEY:

Q Any other documents that you reviewed

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or produced prior to this deposition?

A I reviewed questions and responses to -- or from the DOJ and to the DOJ on the design and construction of the RTU, Division 8. I reviewed the request for project to initiate -- to the board of commissioners to initiate the design and construction of RTU, Division 8. That's the highlights of what's related to this case.

Q Did you review the opinion by Judge Tharp in the Clemons case prior to testifying today?

A During this time period, no.

Q You have reviewed Judge Tharp's opinion in the Clemons versus Dart case --

A Yes.

Q -- is that correct? Have you reviewed Judge Gettleman's opinion in the Lacy case or opinions in the Lacy case?

A Yes.

Q Within the last two weeks, have you reviewed --

A No.

Q Well, you have to let me ask the

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questions. Going back to Exhibit Number 5, Mr. Banks begins his memorandum -- Do you know Eddie Avant?

A Yes, I have met him.

Q What is his position with the jail?

A He's the chief of courts.

Q Have you discussed with Mr. Avant accessibility for wheelchair-assisted prisoners at the courthouses?

MS. CARROLL: Objection, timeframe, relevance to this case.

MR. MORRISSEY: This case involves accessibility at the court building for Mr. Wade.

MR. CUMMINGS: Between August of 2014 and October of 2014, so.

MR. MORRISSEY: It also -- You're not going to allow him to answer?

MS. CARROLL: It depends on the question. It was a very vague, broad question.

MR. CUMMINGS: There was an objection to timeframe. So we're just trying to ask about the timeframe, that's all.

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BY MR. MORRISSEY:

Q Go ahead. Can you answer the question?

A I have talked to Mr. Avant about planned alterations to the Leighton Courthouse.

Q **** When was the last time you spoke with Mr. Avant in regards to planned renovations at the Leighton Court Building?

MS. CARROLL: Again, this has to do with the Lacy case, directly on point with the Lacy case. It has nothing to do with Mr. Wade whose already been out of IDOC for how long now?

MR. CUMMINGS: Since October 2014.

MS. CARROLL: So I'm going to instruct him not to answer.

MR. MORRISSEY: We'll certify the question.

MS. CARROLL: Go ahead.

BY MR. MORRISSEY:

Q Prior to -- In 2014, did you talk to Eddie Avant about accessibility in the Leighton Court Building?

A Can you define what you mean by

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"accessibility"?

Q Handicapped toilets for prisoners attending court at the Leighton Court Building, ADA compliance at Leighton for wheelchair-bound prisoners?

A Did I talk to him about the toilets, no.

Q Did you talk to Mr. Avant in the year 2014 about ADA compliance issues at Leighton?

A We talked about -- We talked about compliance issues and remedies.

Q Do you know how many times in the year 2014 you talked to Mr. Avant --

A I don't recall.

Q -- about ADA compliant issues?

A I don't recall.

Q Did you talk to Mr. Avant in regards to holding cells in Leighton not being in compliance with ADA?

MS. CARROLL: Objection to form, foundation.

BY THE WITNESS:

A I think I've said that I talked to Mr. Avant about ADA issues in the Leighton

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Court Building.

Q Did that include holding cells in the Leighton Court Building?

A It was all holding cells.

Q Did you talk to Mr. Banks in the year 2014 about holding cells in the Leighton Court Building?

A He was present when I talked to Mr. Avant.

Q Who else was present when you talked to Mr. Avant in regards to holding cells in the Leighton Court Building?

A I forget their names. One was Officer Johnson -- or Jackson. I'm sorry, not Johnson. Jackson. And Mike -- I can't remember his last name and one other gentleman that I had met for the first time.

Q When was the first time you inspected holding cells in the Leighton Court Building after joining the Cook County government?

MR. CUMMINGS: I'm going to object to this line of questioning as not being proportionate to claims of Mr. Wade because there's not any claims regarding holding

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cells at Leighton, but you can answer the question.

BY THE WITNESS:

A Again, inspect is not the correct word.

BY MR. MORRISSEY:

Q Well, when did you physically visit holding cells in the Leighton Court Building for the first time as the compliance director for Cook County?

A The last week of June 2014, it was a week after I started.

Q Did you visit -- Do you want to use the word visit instead of inspect?

A Absolutely.

Q Did you visit the holding cells behind Bond Court 101 in June of 2014?

A Yes, we went to the bond court area.

Q Prior to going to the bond courtroom, did you visit the ramp leading from the jail up to the holding cell in Courtroom 101?

A The ramp, are you talking about on the bridge.

Q What do you -- How do you define

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bridge?

A Lower level holding area, staging area.

Q When you visited in late June of 2014 the holding cells in 101, did -- were there grab bars in the holding cells?

A No.

Q Were there toilets -- how many -- Strike that. How many holding cells are behind Courtroom 101?

A I don't recall off the top of my head.

Q Did any of the holding cells have grab bars for wheelchair assistance?

A Not that I observed, no.

Q Did any of the holding cells have toilets that complied with the 2010 standard for toilet seat height, 17 to 19 inches?

A Since the building was constructed in the late 1920s and the fixtures are pre-ADA, they do not have to meet the 2010 standards for alterations, renovations or new construction.

Q Did you measure the seat height of the toilets --

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A No.

Q -- when you visited in late June of 2010?

A No, I did not.

Q Was the seat height between 17 and 19 inches under the 1991 to 2010 standards?

MS. CARROLL: Objection, asked and answered.

BY THE WITNESS:

A Are you asking what the '91 standards are compared to the 2010?

BY MR. MORRISSEY:

Q Let's go to the 2010 standards, the required height is between 17 and 19 inches from the toilet seat for the height of the toilet, correct?

A Yes.

Q When you visited in late June of 2010, were the toilets in the holding cells behind Courtroom 101 between 17 and 19 inches?

MS. CARROLL: Objection, asked and answered, twice.

MR. MORRISSEY: He didn't answer that question.

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BY THE WITNESS:

A Yes, I did. I didn't measure.

BY MR. MORRISSEY:

Q You did not measure?

A I did not measure anything on that visit.

Q So you don't know. Were the public areas for Courtroom 101 accessible in June of 2014?

A I don't know.

Q Have you ever visited the public areas of the Leighton Court Building as the ADA director for the County?

A I have been there, but I have not visited them for any ADA assessment.

Q Do you know whether or not the -- as the ADA director, whether the public washrooms in Leighton are ADA accessible?

A I know that there are some, but I can't tell you which ones.

Q When you visited in late June of 2014, did you visit in addition to Courtroom 101's holding cell, did you visit any other holding cells in Leighton?

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A Yes.

Q What other holding cells did you visit?

A We started at the bridge, the lower level. We went through the first floor, third floor and the fourth or fifth floor. I'm not sure which.

Q Did you inspect the holding -- or did you visit the holding cells on the first, third and fifth floors?

A I think I just said that.

Q Did the holding cells have toilets that were in compliance with the 2010 standards?

MS. CARROLL: I'm going to object in the sense that Mr. Wade did not attend any of these. He was in Courtroom 704 I believe it was. So therefore, there is absolutely no relevance to this line of questioning.

MR. MORRISSEY: There certainly is. Are you going to concede --

MR. CUMMINGS: How is it relevant?

MR. MORRISSEY: Let me finish mine.

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Are you going to concede that the County had notice that the Leighton Court Building was not accessible --

MS. CARROLL: No.

MR. MORRISSEY: -- in August and September of 2014?

MS. CARROLL: No.

MR. MORRISSEY: Then I should be allowed to ask him these questions.

MS. CARROLL: No, because there's no relevance to a courtroom that he's not even been in. Ask about the courtroom he's been in if you want.

MR. MORRISSEY: In regards to notice to the County.

MR. CUMMINGS: It doesn't matter. He could still have notice if it was 704. It doesn't matter. So under your line of questioning -- Let me get this on the record. Under your line of questioning, if two -- the first floor and second floor were not accessible but the seventh floor was, what difference does it fucking make? So just ask about the seventh floor. Just

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ask about the seventh floor. It would save us all some time.

MS. CARROLL: Tom, can you please ask relevant questions? It's already been an hour and 45 minutes and half of the questions are not relevant to this case. It's relevant to Lacy.

MR. MORRISSEY: Are you going to --

MS. CARROLL: If you explain the relevance --

MR. MORRISSEY: It's relevant in regards to Mr. Gumm's position as the ADA director for the County in regards to his notice and the notice of the County in regards to the accessibility of the Leighton Court Building. That's why it's relevant.

BY MR. MORRISSEY:

Q Were any of the holding cells --

MR. CUMMINGS: Wait. Wait. Wait.

Okay, I object to this question for foundation because you still haven't -- You haven't decided -- First of all, it hadn't been established that the building itself --

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It hasn't been established the building itself needed to be accessible in the first place, but go ahead and ask your fucking question.

BY MR. MORRISSEY:

Q Were any of the holding cells that you visited in late June of 2014 accessible for handicapped persons?

A Since I wasn't there to assess accessibility but to have a first walkthrough, at that time, there was no determination.

Q What accommodations when you visited the first, third and fifth floor holding cells behind the courtrooms were there for wheelchair-bound detainees?

A I don't know. It was my first visit there. I was just learning -- It was the first time I had ever been through it.

Q Did you also inspect the Leighton Court Building in -- on October 22nd, 2014 with Maureen Reagan?

A If that's the date that you had them come there, then I was with them while they were doing their assessment.

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Q When you inspected the -- When you were part of the inspection group on 22nd, 2014, was part of the inspection the ramps which lead from the bridge to the holding cells for Courtroom 101?

MS. CARROLL: And this is the inspection that was part of the Lacy case with Judge Gettleman? That's yes? Was that --

THE WITNESS: Yeah, that was it.
BY MR. MORRISSEY:

Q Can you answer the question?

A That was the inspection for the Lacy case, yes.

Q So was part of the inspection the ramps?

A For the Lacy case, yes.

Q And did you review the report prepared by Maureen Reagan in the Lacy case in regards to the conditions of the ramp that leads from the bridge to the Courtroom 101?

A The report for the Lacy case, yes.

Q And did you agree that the slope of the ramp -- and would that be the north ramp

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that leads from the bridge to the holding cells for 101?

MR. CUMMINGS: Object to foundation.
BY THE WITNESS:

A The ramp leads to the elevator that goes to all floors.

BY MR. MORRISSEY:

Q But there are two ramps on the bridge, right?

A Yes.

Q There is a south ramp and there's a north ramp, correct?

A Yes.

Q Does the north ramp lead to the elevator for the holding cells in 101?

A They lead to all the holding cells on the north side of the building.

Q Is Courtroom 101 on the north side of the building?

A Yes.

Q Do you agree -- what -- Do you agree with Ms. Regan's finding in regards to the slope level of the north ramp?

A I had no objection.

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Q By "no objection," you mean you would agree with her measurements?

A No, I have no objections to it.

Q I'm going to show you what's been marked as Plaintiff's Exhibit Number 6.

(WHEREUPON, Plaintiff's Exhibit No. 6 was marked for identification.)

BY MR. MORRISSEY:

Q It's a group exhibit, and it contains eight pages and then some photographs. I would ask you to take a look at that for a moment.

MR. CUMMINGS: I'm going to object to foundation in that while the witness has testified he's reviewed the document, he is not the author of the document and the author of the document has not been disclosed in this case.

BY MR. MORRISSEY:

Q You have seen this report before, correct?

A Yes.

Q And --

A I have seen it for the Lacy case.

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Q The first page of Group Exhibit 6 pertains to the bridge, correct?

A Yes.

Q And what is meant by a ramp running slope as an architect?

A Running slope is the horizontal distance compared to the vertical distance or the vertical rise.

Q Do either the 2010 ADA standards or the 1991 ADA standards have requirements in regards to the running slope?

MR. CUMMINGS: Object to foundation. Again, it has not been established whether or not this building is required to meet either one of those standards, but you can answer the question.

BY THE WITNESS:

A The '91 and the 2010 standards have slope requirements for new construction, alterations or renovations.

BY MR. MORRISSEY:

Q What are those requirements?

A Maximum of one to twelve, one rise to twelve inches of run.

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Q Does the north ramp comply with -- does the north ramp have a one-to-twelve ratio as far as slope?

A No. It's not required to meet the '91 or 2010 standards.

Q Does the 1991 or the 2010 have standards in regards to ramp handrails?

A Does it have handrails, no.

Q No. The question is under the 2010 ADA standards or the 1991 standards, are there requirements in regards to handrails for ramps?

A For new construction, alterations and renovations, there are.

Q In September and August of 2014, did the north ramp, which led to the elevator for Courtroom 101 have handrails?

A No.

Q Does either the 1991 or the 2010 ADA standards have requirements in regards to an intermediate landing for ramps?

A For new construction, alterations and renovations if you make changes, yes.

Q What are those standards?

A It's a max run, maximum run of 30

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feet before there is an intermediate landing.

Q In August and September of 2014, did the north ramp provide for that intermediate landing?

A Since it was constructed prior to any ADA standards, it was not required but it does not have one.

Q Turning to the Group Exhibit Number 6, the first photograph which is marked as Reagan Exhibit 2, page 9; do you see that document?

A Yes.

Q Does that appear to be a picture of one of the ramps?

MR. CUMMINGS: Object to foundation.

MR. MORRISSEY: Let me rephrase it.

BY MR. MORRISSEY:

Q In Group Exhibit Number 6, Photograph LEI0137, does that appear to be a photograph of one of the ramps off the bridge in the Leighton Court Building?

A No.

MR. CUMMINGS: Object to foundation.

You can answer.

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BY THE WITNESS:

A No, it's both ramps.

BY MR. MORRISSEY:

Q So that's the north and the south ramps?

A It's standing at the top of the south ramp looking north.

Q And if we turn to page 10, is that another photograph of both ramps off the bridge in the Leighton Court Building?

MR. CUMMINGS: Objection, foundation.

BY THE WITNESS:

A Yes, it's taken from the top of the north ramp looking south.

BY MR. MORRISSEY:

Q In August and September of 2014, did you ever observe Carl Wade go up or down the north ramp of the Leighton Court Building?

A I don't know who Carl Wade is.

Q Do you have any personal knowledge in regards to how Mr. Carl Wade got up and down the ramps --

A If I --

Q Let me finish. Do you have any

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personal knowledge in regards to how Mr. Carl Wade in August and September would have gone up the north ramp to the holding cells in 101, Courtroom 101?

A Since I said I don't know him, I have no personal knowledge of how he would or not.

Q Have you looked at any documents maintained by the Cook County Sheriff or the County which reflect how Mr. Wade got up and down the north ramp when he attended Courtroom 101 in August and September?

A I have not looked at any documents, no.

Q Have you seen any videotapes of Mr. Carl Wade going either up or down the north ramp at the Leighton Court Building?

A Again, I don't know Mr. Wade.

Q In August or September of 2014, were you ever physically present when a wheelchair person went up and down the ramp?

A Yes.

Q Did you ever see a wheelchair-bound detainee go up the ramp in August -- Strike that.

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1 In August of 2014, what is the name
2 of -- or names of the wheelchair-bound
3 detainees that you saw go up the ramp at the
4 Leighton Court Building?

5 **A I do not know their names.**

6 Q Do you know the names of any
7 correctional officer that was present when a
8 wheelchair-bound prisoner went up or down the
9 ramp at the Leighton Court Building in August
10 or September of 2014?

11 **A No.**

12 Q Did you take any -- When were you
13 present in August or September of 2014 when a
14 wheelchair-bound detainee went up or down the
15 ramp at the court building?

16 **A I don't recall during that specific
17 time.**

18 Q How many days were you present in the
19 ramp area of the Leighton Court Building in
20 August of 2014?

21 **A I don't recall.**

22 Q More than one day?

23 **A Probably, but I don't recall.**

24 Q Did you -- Had you measured the ramp

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1 in August of 2014?

2 **A No.**

3 Q In September of 2014, how many days
4 were you present physically present in the ramp
5 area?

6 **A I don't recall.**

7 Q For what period of time in August of
8 2014 did -- how much time did you spend in the
9 ramp area of the Leighton Court Building?

10 MS. CARROLL: Objection, asked and
11 answered about five times.

12 BY THE WITNESS:

13 **A I don't recall.**

14 BY MR. MORRISSEY:

15 Q How much -- I mean, were you there
16 for five minutes? an hour, two hours?

17 **A It varied.**

18 Q What was the maximum amount of time
19 you spent in August of 2014 in the ramp area of
20 the Leighton Court Building?

21 **A Probably an hour, hour and a half.**

22 Q Who was present with you when you
23 were in the ramp area of the Leighton Court
24 Building in August of 2014?

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1 **A I don't recall. I don't recall who
2 all was present.**

3 Q During that one hour to an hour and a
4 half that you were present in August of 2014 --

5 **A I didn't say I was present. You just
6 asked me what was the longest time I spent on
7 the bridge. I didn't say it was in August of
8 '14.**

9 Q In what month in the year 2014 did
10 you spend an hour or more in the --

11 **A I don't recall what month.**

12 Q Could it have been after October --

13 **A I've been there so many times.**

14 Q Could it have been after October of
15 2014?

16 **A I don't recall. I have been there so
17 many times.**

18 Q What were you doing when you were
19 standing or physically present in the ramp area
20 of the Leighton Court Building in August of
21 2014?

22 **A Several things. I was making
23 observations. I was looking at possible
24 remedies to physical elements, alteration**

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1 **possibilities. There was a lot of things I was
2 doing there.**

3 Q Did you make any notes in regards to
4 your -- the time you were in the Leighton ramp
5 in August of 2014?

6 **A No.**

7 Q Did you make any drawings --

8 **A No.**

9 Q -- in regards to -- Let me finish my
10 question -- in regards to the time you were in
11 the Leighton ramp area in August of 2014?

12 **A No, I did not make any drawings.**

13 Q Did you see wheelchair-bound
14 detainees going up the ramps unassisted in
15 August of 2014?

16 **A In August of 2014, I don't recall a
17 specific time and most -- I don't believe I
18 ever saw a detainee going up the ramp
19 unassisted.**

20 Q Did you see wheelchair-bound
21 detainees going down either the north or south
22 ramp in August of 2014 unassisted?

23 **A In August, I don't recall, but I have
24 seen wheelchair-bound detainees going down the**

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1 ramp, and they were never unassisted.

2 Q Have you, at any point, reviewed
3 videotapes of prisoners going up or down the
4 ramps at the Leighton Court Building?

5 A Reviewed, no.

6 Q Have you seen them either in court
7 or --

8 A In the Lacy case, yes, but that's the
9 Lacy case.

10 Q So that's different from the Wade
11 case as far as prisoners going up and down
12 ramps; is that your testimony?

13 A No, it just -- it wasn't --

14 MR. CUMMINGS: Do you need a class
15 member in Lacy?

16 BY MR. MORRISSEY:

17 Q Go back to the --

18 A I'm not sure --

19 MS. CARROLL: Wade is a declarant in
20 Lacy.

21 MR. CUMMINGS: Can we take a break?

22 MR. MORRISSEY: No, we're -- If you
23 want to take a break, go ahead.
24

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(WHEREUPON, a short
break was had.)

3 BY MR. MORRISSEY:

4 Q Going back to the ramp, when you
5 first visited in June of 2014, were you aware
6 at that time that the ramp didn't comply with
7 the 2010 and 1991 slope requirements?

8 A I was aware that it didn't have to
9 because it was preexisting and that it most
10 likely was going to be steeper than what the
11 standards state.

12 Q What did you do as the ADA director
13 in June of 2014 when you discovered that the
14 ramp presented a problem for
15 wheelchair-assisted prisoners?

16 MR. CUMMINGS: Objection to the form
17 of the question.

18 MS. CARROLL: Same.

19 MR. CUMMINGS: Assumes there was a
20 problem.

21 BY THE WITNESS:

22 A At that time, there was already a
23 request in from the Sheriff's Office to alter
24 all of the holding cells in Leighton, and we

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1 ensured that it was in the capital plan moving
2 forward.

3 BY MR. MORRISSEY:

4 Q What did you personally do as the ADA
5 director when you discovered the ramp appeared
6 to be steeper than the 2010 standard required?

7 A Are you asking that if I went in and
8 dug it out and corrected it or something? I
9 don't understand what you're asking.

10 Q My question is what did you
11 personally do as the director?

12 A I personally made sure that we had
13 the funding and the resources to make the
14 corrections.

15 Q Between June of 2014 and August and
16 September of 2014, was the ramp corrected,
17 physically corrected?

18 MR. CUMMINGS: Objection to the form
19 of the question. It assumes it must be
20 corrected. You can answer.

21 BY THE WITNESS:

22 A Well, since your expert report from
23 the Lacy case is dated 11/3 of 2014, I think
24 that's outside the timeframe that you just

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1 expressed.

2 BY MR. MORRISSEY:

3 Q Can you answer the question?

4 A I just did.

5 Q Was any physical renovation done to
6 the ramp after you discovered it in June of
7 2014 through the end of September of 2014, yes
8 or no?

9 A I just answered it. Your expert
10 report gives the measurement and the slope that
11 is dated in November, and this is all from the
12 Lacy case.

13 Q So nothing was done physically
14 between the time of June until --

15 A I've answered that like four times in
16 a row now.

17 Q Well, it's a yes or no.

18 A No, it's not.

19 Q Pardon?

20 A No, it's not.

21 Q Well, going back to your --

22 A Because you don't understand the ADA.
23 That's why.

24 Q Going back to your job description,

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Mr. Gumm.

A Yes.

Q If you look at Exhibit Number 1 for a moment, it states your typical duties involve -- include develop ADA program policies, procedures and guidelines; do you see that?

MR. CUMMINGS: I'm going to object to the form of the question because it talks about typical duties, but you can answer.

BY THE WITNESS:

A Where do you see it? I'm not finding it.

BY MR. MORRISSEY:

Q On page 1 of the standard job description for the compliance project director; do you see that?

MR. CUMMINGS: It talks about typical duties.

BY THE WITNESS:

A Develop ADA program, policies, procedures and guidelines and that's in reference to the Department of Capital Planning, which I work for, and is not for the Sheriff's department.

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BY MR. MORRISSEY:

Q Have you developed any programs or policies for the Sheriff's Department in regards to the ramp at --

A Again --

Q Let me finish. Have you, yes or not, developed any programs or policies in regards to the accessibility of the ramp at the Leighton Court Building?

A Yes.

Q What programs -- When did you develop the program or policy?

A It was developed at the end of June of 2014.

Q What policy did you develop in the end of June of 2014 for the Sheriff's Office?

A I don't develop policies for the Sheriff's Department, and I think you know that from the Lacy case.

Q You said that you -- As the ADA compliance project director in June of 2014, you participated in a policy with the Sheriff's Office in regards to the ramp at Leighton?

A No.

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Q Have you done anything since joining as the ADA compliance project director in regards to developing policies for the Sheriff's Office?

A I just told you. I don't develop policies for the Sheriff's Department, and you know that from the Lacy case.

Q Have you as the ADA compliance project director provided any training to Sheriff's employees in regards to the ramp at the Lacy (sic) court building?

A Again, I do not provide training to the Sheriff's Department. You know that.

Q Did you provide any training to the nursing staff in Cermak as the ADA compliance director?

A I do not provide training for Health and Hospitals or the Sheriff's Department. All of this job description is for the Department of Capital Planning.

Q Have you reviewed any training programs within Cermak to overcome physical barriers at Cermak?

A Again, this job description does not

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cover that, and I do not have the authority.

Q So the answer is you have not reviewed any training programs at Cermak for nurses to overcome physical barriers for prisoners at the jail?

MS. CARROLL: Objection to the form of the question. It misstates his testimony, is irrelevant to this case.

BY MR. MORRISSEY:

Q You can answer, sir.

A Since they are not within the Department of Capital Planning and Policy, it is beyond my job description to do that; and I think you can realize that by reading this.

Q Do you know whether or not Cermak has any training programs for nurses in regards to providing assistance to wheelchair-bound detainees overcoming barriers for prisoners at the jail?

A Why should I know that if it's not within my job description and purview and authority like I just told you?

Q So the answer is, no, you don't know if there's training programs?

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A How would I know? Why would I know?

Q As the ADA compliance director, do you know whether or not the Sheriff in August or September of 2014 had developed any programs or training to help wheelchair-bound detainees overcome the barriers involving the ramp going up and down at Leighton?

A During what time period?

Q August and September of 2014?

A I know that Marlene Fuentes was working on some policies and procedures that affected that, yes.

Q Do you know whether or not -- Strike that.

A If you're trying to get that nothing was done, that's totally wrong.

MR. MORRISSEY: Do you want to take a 20-minute break so the court reporter can take a break and we can take a break?

MR. CUMMINGS: Sure.

MR. MORRISSEY: Why don't we take a half hour break, and we'll come back at 1:15. Will that be sufficient?

MS. CARROLL: That's fine.

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(WHEREUPON, a short break was had.)

BY MR. MORRISSEY:

Q Mr. Gumm, I call your attention again to that Exhibit 6, Maureen Regan's report, and ask you, again, to look at Photographs 137 and it looks like 5069.

A Okay.

Q Those are the ramps, again, at the Leighton Court Building, correct?

A Yes.

Q Do you agree that the -- that those ramps could present a barrier to a wheelchair user?

MR. CUMMINGS: Objection to the form of the question, incomplete hypothetical.
BY THE WITNESS:

A It would be deemed a physical barrier.

BY MR. MORRISSEY:

Q By "a physical barrier," you're referring to under the ADA, it would be a physical barrier?

A Under the ADA, it would be a barrier

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physical in nature, but it does not necessarily mean that it denies them access to the programs.

Q You reviewed some records in regards to Carl Wade, correct?

A To what?

Q In regards to Carl Wade?

A What kind of records are you talking about?

Q I'm asking you, did you review some records in regards to the Plaintiff in this case, Carl Wade?

A About him?

Q Yes.

A No.

Q Assuming Carl Wade is a paraplegic and is wheelchair-bound, could the ramps leading up to the court building at Leighton present a barrier to a wheelchair --

A Possible.

Q And would a wheelchair user be covered under the ADA?

MR. CUMMINGS: Objection to the form of the question, incomplete hypothetical.

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You can answer.

MR. MORRISSEY: Let me rephrase that.

BY MR. MORRISSEY:

Q Could a wheelchair-assisted person be considered a disabled person under the ADA?

MR. CUMMINGS: Objection to the form of the question, incomplete hypothetical.
You can answer.

BY THE WITNESS:

A There are what's known as obvious disabilities and someone in a wheelchair would obviously have a disability and they would then be covered under the ADA.

MR. CUMMINGS: I have one more objection just for the record. This witness is not being presented as an expert. So whether or not -- His opinion on a question that's related to a legal conclusion is not proper.

BY MR. MORRISSEY:

Q Does a wheelchair user have the same right to access -- to use the ramps at Leighton as an able-body person under the ADA?

MR. CUMMINGS: Objection to the form

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of the question, but you can answer.

BY THE WITNESS:

A What do you mean the same right?

BY MR. MORRISSEY:

Q Well, under the ADA, would Mr. Wade, if he was indeed in a wheelchair, have the same entitlement to go up and down the ramps at Leighton as an able-body prisoner?

MR. CUMMINGS: Objection to the form of the question.

BY THE WITNESS:

A An individual covered the ADA is afforded the same opportunity to access programs, services and activities that are provided by the public entity.

BY MR. MORRISSEY:

Q So access to the ramp could be considered part of a program or services provided by Cook County or the Sheriff, correct?

A It's part of the pathway to get to those programs and services.

Q It's your position that the Leighton Court Building was built prior to the enactment

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of the ADA, correct?

A Yes, it's a fact.

Q Does the ADA Act for buildings that are built prior to 1991, do government entities still have to provide any access to disabled individuals for programs and services?

A They have to provide equal access or not -- they have to provide equal -- excuse me, equal opportunity to their programs, services and activities.

Q And would that be considered a reasonable accommodation under the ADA?

MR. CUMMINGS: Objection to the form of the question.

MS. CARROLL: Objection to form.

MR. MORRISSEY: Well, let me rephrase the question.

BY MR. MORRISSEY:

Q Under the ADA, would Mr. Wade if he was a wheelchair user be entitled to some reasonable accommodation to go up and down the ramps at Leighton in order to attend court?

A Yes.

Q In June of 2014, do you know whether

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or not the Sheriff or Cook County provided a reasonable accommodation for wheelchair-assisted prisoners to go up and down the ramps?

MS. CARROLL: I'm going to tell you not to answer until he --

MR. CUMMINGS: I have an objection on behalf of the Sheriff in that Carl Wade was not in custody in June of 2014. So it's beyond the scope of the claims in this case.

MS. CARROLL: For the record, because my throat is on fire, I have given authority for Nick to make objections on behalf of the County as well in case I can't chime in on time.

BY THE WITNESS:

A In June of 2014, I don't know. I was new to the County and just learning.

BY MR. MORRISSEY:

Q In August of 2014, did wheelchair-bound detainees such as Carl Wade have a right to a reasonable accommodation to go up and down the ramps at the Leighton Courthouse?

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MR. CUMMINGS: Objection, assumes facts not in evidence. You can answer.
BY THE WITNESS:

A They would have -- Yeah, they would need an accommodation or they could request the accommodation.

BY MR. MORRISSEY:

Q As you sit here today, in September of 2014, were you aware of what reasonable accommodation was provided by the County or the Sheriff's Office for wheelchair-bound detainees going up and down the ramp to court at Leighton?

MR. CUMMINGS: I'm sorry, what was the timeframe again?

MS. CARROLL: September of 2014.

BY THE WITNESS:

A I know that -- I'm not -- I don't recall the exact timeframe, but I know that the accommodation that was provided was officers pushing wheelchair detainees up and down the ramps.

BY MR. MORRISSEY:

Q Do you have a specific recollection

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1 in September of 2014 whether all
2 wheelchair-bound detainees going to and from
3 the Leighton court up and down the ramps were
4 pushed up and down?

5 **A I was not out there on a daily basis,**
6 **and I was not part of the supervision of the**
7 **operation of the ramp and the movement of**
8 **detainees. That's beyond my role.**

9 Q Now, going back -- Going back to
10 Exhibit Number 2, which I believe encompasses
11 Bullpen 34/5 -- No, I'm sorry. Maybe it's
12 Exhibit 3. I think it's Exhibit 3. Part of
13 Exhibit 3 was the 504 Design Guidelines for
14 Accessible Cells in Correctional Facilities?

15 **A Issued by the DOJ for federal**
16 **prisons.**

17 Q Correct. You recall we looked at
18 Page 691 in regards to diagrams which provide
19 for the turning space within a cell?

20 **A It is turning space, not necessarily**
21 **within a cell.**

22 Q Well, if we look on Page 688 --
23 Strike that. If we look at 691, there are two
24 diagrams in regards to turning space in a

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1 detention holding cell, correct?

2 **A There are diagrams of two turning --**
3 **two different types of turning space.**

4 Q One is the diameter space, correct,
5 and the other is the T-shaped space for a
6 180-degree turn?

7 **A Yes.**

8 Q Now, you inferred that there was
9 another turning space that is allowed under the
10 ADA?

11 **A I didn't infer that.**

12 Q To your knowledge, under the 504
13 Design Guides, are there any other examples of
14 turning space in a holding cell for prisoners?

15 MS. CARROLL: Objection to the form
16 of the question. He said -- Objection to
17 form.

18 BY THE WITNESS:

19 **A These are the two that are outlined**
20 **in the standards.**

21 BY MR. MORRISSEY:

22 Q Under the 2010 ADA requirements, are
23 there any other examples other than the
24 diameter of space or the T-shaped space for

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1 turning space within a holding cell?

2 **A There are alternatives allowed and**
3 **exceptions that are within the 2010 standards.**

4 Q Where can we find those in the 2010
5 ADA guidelines?

6 **A One of them is Equivalent**
7 **Facilitation and New Designs in Technology. So**
8 **the guidelines don't limit you to just what's**
9 **in the standards; but if there are improvements**
10 **in design or technology or aids, then those**
11 **would be allowed beyond what is shown in the**
12 **standards; and there's exceptions for technical**
13 **and feasibility that if space, an existing**
14 **space, is tight and doesn't allow strict**
15 **conformance to the standards that you're**
16 **allowed to make the improvements to the most**
17 **extent feasible. So those are exceptions.**

18 Q When you talk about equivalent or
19 improved technology, under that requirement or
20 standard, the turning space would be equal or
21 greater than what's provided in the --

22 **A It has to be equal to --**

23 Q To the diameter of space or T-shaped
24 space, 180 degrees for turning?

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1 **A It has to be equal to or greater**
2 **than.**

3 Q Can you provide me an example where
4 the equivalent or improved technology has been
5 allowed under the ADA?

6 **A What does that have to do with this**
7 **case? I don't understand.**

8 Q That's a question for you.

9 MR. CUMMINGS: I'm going to object to
10 the form of the question. It's also vague
11 and broad; but if you understand what he is
12 asking, you can answer.

13 BY THE WITNESS:

14 **A There's -- I don't -- There are a**
15 **multitude of possibilities that you could come**
16 **up with for different avenues of movement that**
17 **don't necessarily have to be a circle or a T,**
18 **and it is well-beyond expressing what those are**
19 **in this setting.**

20 Q I'm going to show you now a diagram
21 of the third floor of Cermak. It's going to be
22 marked as Exhibit 7.
23
24

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(WHEREUPON, Plaintiff's Exhibit No. 7 was marked for identification.)

BY MR. MORRISSEY:

Q Showing you what has been marked as Exhibit Number 7, do you recognize that document?

MS. CARROLL: Do you have a copy or is this something that I gave you?

MR. MORRISSEY: Here you go.

MS. CARROLL: Is this something I gave you? Deposition Exhibit Number 3, so this was in another deposition?

MR. MORRISSEY: It's an exhibit.

BY MR. MORRISSEY:

Q Do you recognize that floor plan?

MR. CUMMINGS: I believe this was disclosed in Harper possibly, which is not part of your 26-day disclosure.

BY MR. MORRISSEY:

Q Do you recognize that document, sir?

A This is a drawing of an existing conditions floor plan, Cermak, third floor.

Q Do you know what -- the date when

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this diagram was prepared?

A Yes.

Q When? What year?

A As you can see in the title block, it was in the year of 2013.

MR. CUMMINGS: Can we take just a moment? I think I have a larger version of this somewhere.

MR. MORRISSEY: Oh, good. Do you have a couple of them?

MR. CUMMINGS: No. Patrick has the one from Harper, which is what you're looking at right now, which is why it's been previously marked as Defense Exhibit 3.

(WHEREUPON, a short break was had.)

BY MR. MORRISSEY:

Q Going back to the infamous Bullpen 34/5 --

MS. CARROLL: Still? He was barely there. Tom, you're wasting Michael Gumm's time. Can you actually talk about what's going on in our case, please?

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BY MR. MORRISSEY:

Q 34/5, it's just a quick question. When you laid out in your e-mail on October 2nd the seven steps to make Bullpen 34 ADA compliant, you had already determined that there was enough clear space around the toilet and the path of travel in that bullpen, correct?

A That's what the e-mail indicates.

(WHEREUPON, Plaintiff's Exhibit No. 8 was marked for identification.)

BY MR. MORRISSEY:

Q Now, going to -- I'm going to show you what's marked as Plaintiff's Exhibit Number 8. It's a document --

A What are we doing with 7?

MR. CUMMINGS: Don't.

THE WITNESS: I'm sorry?

BY MR. MORRISSEY:

Q It's a document that's titled ADA Equipt (sic) Rooms in Cermak.

MS. CARROLL: You didn't bring copies? And that's from another case.

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BY MR. MORRISSEY:

Q Do you see that document?

A I see it.

Q Now, was it your understanding that in 2014, those were the rooms that Mr. -- Do you know Mr. Badali?

A Yes.

Q What was Mr. Badali's position in January of 2014?

A He was the facilities manager for Cermak and RTU Division 8.

Q Is he still with the County, to your knowledge?

A No, he's not.

Q When you came in to the County in June of 2014, did you have an opportunity to inspect or visit the third floor of Cermak?

A Since I came into employ, yes, I've had opportunities to visit third floor of Cermak.

Q Do you agree that at least in the start of January of 2014, Mr. Badali's list of ADA equipped rooms in Cermak was accurate?

A I don't believe it is a full list.

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Q Looking at the -- Going back to Exhibit 7, the diagram of the third floor of Cermak.

A Okay.

Q Can you show me on that diagram where Room 3205 -- I believe it's 3205 West is located?

A It is -- There are two sections to the building with a link in between. The northern half contains 3-North and 3-West and 3205 is on the south wall of this northern building.

Q Will you circle 3205?

MR. CUMMINGS: I don't know if you want him to circle it. You might want to reuse it in another dep at some point.

MS. CARROLL: It already has circles with 3215 from the other dep.

BY MR. MORRISSEY:

Q Does Exhibit 7 have a circle around Room 3205?

A No, but it does on 3213 and 3215 --

Q Will you circle and put your --

A -- and 3231.

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Q And put your initials on the Room 3205 for me?

A Do you have a pen?

MR. CUMMINGS: Just for the record, this document has not been disclosed in this particular case prior to today.

BY THE WITNESS:

A (Witness indicating.)

BY MR. MORRISSEY:

Q Now, looking at -- Does this diagram in Diagram 7 indicate the rooms on -- how many -- Strike that.

How many rooms on 3-West in 2013 had an ADA accessible -- Strike that. How many rooms on 3-West were ADA accessible in 2013?

A I believe one.

Q And what room was that?

A That would be 3215.

Q And your understanding in 2013, what constituted an accessible room on 3-West?

MR. CUMMINGS: I'm going to object to timeframe because Mr. Wade wasn't in custody in 2013.

BY THE WITNESS:

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A Well, I want to make a correction. 3215 has a -- has been upgraded with some of the elements, accessible elements. What makes any of the rooms accessible are accommodations that are given to overcome any of the physical barriers. There is a difference between ADA accessibility and ADA accessible elements.

Q What do you mean by "ADA elements"?

A Well, a toilet that meets the current standards would be an ADA accessible element, a sink that meets the current standards, grab bars, the proper length and mounted height, any single item that meets the 2010 standards if you have altered them is an ADA accessible element.

What makes things ADA compliant is if there are physical barriers, the accommodations that are made to provide the equal opportunity for equality.

Q Going back to what you described -- let me -- Let me strike that question.

Under the 2010 guidelines, does it discuss and enumerate using the word ADA elements, toilets, sinks, grab bars?

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A All of the elements that are described in there are ADA compliant.

Q But does it use the word elements under the 2010 guidelines?

A Yes.

Q So based upon your understanding of the ADA, a room could be ADA compliant if there were other avenues for a disabled person to overcome physical barriers?

A That is the definition of ADA accessible compliance.

Q Under the 2010 or the 1991 Act, is clear space around a toilet one of the ADA elements?

MR. CUMMINGS: Objection to the form of the question.

BY THE WITNESS:

A It is an avenue to approach individually an element.

BY MR. MORRISSEY:

Q So a requirement under the 2010 guidelines is that there must be -- we've already discussed it, but there must be clear space around the toilet?

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A On new construction, alterations or renovations but not in existing spaces prior to 1990.

Q To your understanding, the Cermak building was constructed or finished in 1998?

A Yes.

Q So that was after the passage of the ADA?

A Yes. And it met the standards, the 1992 standards.

Q Looking at the diagram, Exhibit Number 7, in the year 2013, did 3205 in the west wing have the ADA element of an accessible toilet?

A No.

Q Did the room have a sink that was an element required by the ADA?

A No. Oh -- okay.

Q Did it have grab bars in 2013 which was an element required by the ADA?

A This room did not but not all rooms are required to have all of those elements. There is -- For this type of facility, there is a percentage of all of the rooms that must be

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met and Cermak did meet that minimum standard.

Q But you would agree that in 2013, 3205 West was not one of the rooms in Cermak that had the required ADA elements?

A It did not have the ADA elements in it.

Q In August and September of 2014, did Room 3205 have the required ADA elements involving the toilet, sink, grab bars and clear space around the toilet?

A You're throwing a word in there that is improper, and that word is required. What was required of the facility was to have a certain percentage of rooms, not that every room was required.

So saying that it is a required element is inaccurate and it's a misrepresentation of the ADA, and it shows a lack of understanding of it, quite frankly.

Q Well, let's ask a different question, Mr. Gumm, since I don't have the expertise that you have. I'm not an architect.

In August and September of 2014, as the ADA compliance director for the County, did

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Room 3205 have grab bars around the toilet?

A No.

Q Did it have a sink that was ADA -- Strike that. Did it have a sink that met the guidelines that we looked at previously for an accessible cell?

MS. CARROLL: Objection, form.

BY THE WITNESS:

A I will shortcut all of the questions you are going to be coming with. This room did not have any of -- any elements in it in the toileting area that met the '92 or the 2010 standards, but it wasn't required to.

BY MR. MORRISSEY:

Q Did Room 3215 have all the elements in the year 2013 required under the 1992 ADA guidelines?

MR. CUMMINGS: Objection, timeframe.

MS. CARROLL: Yeah, considering

Mr. Wade was not at the CCDOC in 2013. You can answer.

BY THE WITNESS:

A In 2013, there were alterations in the toileting area of --

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BY MR. MORRISSEY:

Q Can you answer yes or no? Answer yes or no to that question.

A Well, you're asking for an entire year, okay.

Q Well, let's start off at the beginning of the year. Well, let me ask you a preliminary question.

In the year 2013, were there alterations, to your knowledge, done to the Room 3215 in Cermak?

A There were drawings indicating that alterations were to take place --

Q Prior to --

A -- in 3215.

Q All right, prior to those alterations, did Room 3215 meet all of the 1992 ADA element standards?

A Yes.

Q Did it meet all of the 2010 element standards?

A There were changes in the 2010 standards from the 1992; and as such, since these met the '92 standard, they were not

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1 required to be upgraded but was chosen to be
2 upgraded.

3 Q Going back to the Room 3205, are you
4 aware that that's the room that Mr. Wade was
5 assigned to between August 16th, 2014 and
6 August 21st, 2014?

7 A I don't recall the date, but I recall
8 the room number.

9 MR. CUMMINGS: That's not going to be
10 of any help either, Tom, because the
11 Sheriff documents don't show any room
12 numbers. We are just going on his dep.

13 MR. MORRISSEY: Do you acknowledge --

14 MS. CARROLL: We know that he was in
15 3205.

16 MR. MORRISSEY: All right.

17 BY MR. MORRISSEY:

18 Q Assuming Mr. Wade in August of 2014
19 was in a wheelchair, was he entitled to the
20 same services and programs as an inmate at the
21 jail as an able-body person?

22 A He's entitled the same opportunity as
23 an able-body person who has an opportunity.

24 Q Would the use of a toilet for a

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1 wheelchair-bound detainee or an able-body
2 person be one of the programs and services
3 provided by Cermak or for the County for an
4 inmate?

5 MR. CUMMINGS: Objection, that calls
6 for a legal conclusion. This is not an
7 expert deposition. His opinion is not
8 relevant but you can answer if you know the
9 answer.

10 BY THE WITNESS:

11 A Yes, daily activities are one of the
12 expectations of the ADA.

13 BY MR. MORRISSEY:

14 Q Assuming for the moment that Room
15 3205 -- that the toilet in Room 3205 presented
16 a barrier for Mr. Wade to use the toilet, would
17 he be entitled to some reasonable accommodation
18 under the ADA?

19 A If he was -- if he -- If he required
20 to use the toilet and if he was unable, he
21 would be expected to have an accommodation to
22 overcome the barrier.

23 Q If, as you say, Cermak's building was
24 built in 1998, was the County or the Sheriff

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1 required to house Mr. Wade in an accessible
2 room at the jail?

3 MR. CUMMINGS: Objection to the form
4 of the question.

5 MS. CARROLL: Same.

6 MR. CUMMINGS: Also scope for this
7 witness.

8 BY THE WITNESS:

9 A My belief --

10 BY MR. MORRISSEY:

11 Q Well, as the ADA director for the
12 County, can you answer that?

13 A You are incorrectly stating that.
14 I'm not the ADA director for the County. I am
15 the ADA compliance director in the Department
16 of Capital Planning. So I do not cover the
17 forest preserve. I do not give direction to
18 Health and Hospitals or the Sheriff's
19 department or any other department outside of
20 the president's office. So I think you have a
21 misunderstanding of my role in the County.

22 Okay, second of all, assignments of
23 rooms would depend upon the doctors'
24 assessments, not mine.

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1 Q Does the ADA cover where a prisoner
2 should be housed in a correctional facility?

3 A It covers that they should be given
4 the opportunity to access the programs,
5 services and activities provided. I have
6 another answer for you, which --

7 Q Well, you don't have a chance to come
8 up with other answers.

9 MS. CARROLL: Not in that way.

10 BY MR. MORRISSEY:

11 Q All right, if you want to, go ahead.

12 A Jails, correctional facilities, are
13 exempt from the ADA except as determined by the
14 Department of Justice or the attorney general,
15 and it says it right in the 2010 standards. So
16 it's the Department of Justice that can
17 determine the standards at which the
18 correctional facilities are judged.

19 Q What type of reasonable accommodation
20 would a wheelchair-bound detainee such as
21 Mr. Wade housed in Room 3205 be entitled to as
22 far as accessing a toilet?

23 MR. CUMMINGS: Objection, calls for
24 speculation, incomplete hypothetical,

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assumes facts not in evidence; but you can answer the question.

BY THE WITNESS:

A He would be -- He would have to be afforded the opportunity to use toileting facilities.

BY MR. MORRISSEY:

Q As the -- In your position with the County in August of 2014, what reasonable accommodation was provided to a prisoner such as Mr. Wade placed in an inaccessible housing unit in Cermak?

MR. CUMMINGS: Objection to the form of the question. Also calls for incomplete -- speculation, incomplete hypothetical, foundation.

MS. CARROLL: And unit versus cell.

MR. CUMMINGS: You can answer.

BY THE WITNESS:

A I know that each room has a call bell for the nursing staff, and I would assume that the nursing staff would then provide the assistance to use the facilities to access the program of toileting.

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BY MR. MORRISSEY:

Q You previously said you don't train the nursing staff --

A Correct.

Q -- to provide accessibility, and you have no personal knowledge whether or not the nursing staff does provide assistance for a wheelchair-bound detainee in an inaccessible room?

A Now you're making assumptions.

Q Do you want me to rephrase the question?

A I have seen the nurses assisting detainees there and detainees with disabilities, and I have also knowledge from reading Plaintiffs' depositions in other cases that the nursing staff helped at any time that they were asked.

Q Which case are you referring to in regards to depositions where Plaintiffs have stated that a nurse has assisted them with toileting?

A You didn't say toileting before. You had just asked about assistance.

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Q Do you recall reviewing any deposition testimony of a wheelchair-bound detainee where a nurse provided assistance in toileting?

A In toileting specifically, no.

Q Do you have any specific recollection of any deposition by a plaintiff in regards to a nurse providing assistance in transferring from a wheelchair to a shower chair in Cermak?

A That's the same question in a different form because that's still assisting with toileting, which is a general concept of getting to the toilet, using it and getting back to their chair.

Q If we separate toileting from taking a shower, those are two separate functions?

A Correct.

Q Do you recall any plaintiff testifying in a deposition that a nurse or an aide assisted him or her in taking a shower?

A Yes.

Q And what deposition?

A Clemons and you gave the deposition.

Q In Clemons, isn't it correct that the

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reference was to a sponge bath in the bed?

A No.

Q No? Okay. Do you have personal knowledge of seeing a member of the nursing staff enter into one of the cells in Cermak and assist a prisoner transferring from a wheelchair to the toilet?

A I have answered that already.

Q No, you haven't.

A Yes, I have.

Q That question wasn't asked of you. Sir, will you answer the question?

A Yes, it's just a different form of the same question that I've answered, and the answer is that I have not personally seen a nurse assisting a detainee with a disability toileting. That's a general answer for the same three questions.

Q You mentioned you read some depositions of plaintiffs in wheelchair ADA cases?

A Yes.

Q What depositions have you had an opportunity to read?

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A Clemons -- I can't remember the others if there were others, but I remember Clemons clearly because it was talking about Cermak.

Q Do you know if Cermak has a policy requiring the nursing staff to assist wheelchair-bound detainees toileting?

MR. CUMMINGS: Objection, outside the scope of this witness' knowledge but you can answer, if you know.

BY THE WITNESS:

A Again, I think we've answered that that I don't have anything to do with supervising or training or assisting nurses.

BY MR. MORRISSEY:

Q From your review of Clemons' deposition, explain how Mr. Clemons was assisted in either toileting or showering while an inmate at the Cook County Department of Corrections?

MR. CUMMINGS: Objection, relevance, not proportional to the claims in this case. If you want to give him a hypothetical, it's fine; but what happened

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in Clemons is not relevant to this case.

BY MR. MORRISSEY:

Q You can answer.

A In Clemons' deposition, he, himself, stated that the nurse assisted him with showering in the isolation cell shower, transferring from his bed to a wheelchair to the shower and back to the bed.

Q Is your sole understanding that nurses assist wheelchair-bound detainees who are showering or toileting based upon reviews of plaintiffs' deposition testimony?

MS. CARROLL: Objection to the form of the question. Again, it has absolutely nothing to do with this case or Carl Wade. It has to do with your other cases. He was just saying that --

MR. MORRISSEY: Well, you can make an objection. You can't make a speaking objection.

MS. CARROLL: I can.

MR. MORRISSEY: No, you can't.

MS. CARROLL: Yeah, I can.

MR. CUMMINGS: Technically, all

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objection are speaking.

MR. MORRISSEY: You got me there.

BY THE WITNESS:

A Okay, we were talking about a single incident from a deposition that I was testifying, and you have now jumped it to a general conclusion.

BY MR. MORRISSEY:

Q Other than reviewing Mr. Clemons' deposition, what other knowledge do you have that the nursing staff assist wheelchair-bound detainees housed in inaccessible rooms at Cermak?

A Cermak, specifically none, but my wife is a nurse and I have interacted with numerous nurses in the profession of healthcare, and their sole purpose is to assist their patients and provide patient care, which that is a standard of patient care.

MR. MORRISSEY: Can we go off the record here?

(WHEREUPON, a discussion was had off the record.)

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(WHEREUPON, Plaintiff's Exhibit No. 10 was marked for identification.)

BY MR. MORRISSEY:

Q I'm going to show you what's marked as Plaintiff's Exhibit Number 10. Showing you what's been marked as Plaintiff's Exhibit 10, it's a group exhibit. It includes discovery responses by the Sheriff and Cook County, some of which were tendered late last night.

MS. CARROLL: Nothing was tendered late last night. It was tendered at 10:00 in the morning yesterday.

MR. CUMMINGS: Since you only seem to have the one copy --

MR. MORRISSEY: Do you want to run a copy of the whole thing, go ahead.

MR. CUMMINGS: Well, I would like to know what you are going to use, and I can try and print it out.

MS. CARROLL: Are you using all of it?

MR. CUMMINGS: What are you going to use?

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MR. MORRISSEY: Well, we're going to go to the implementation plan.

MR. CUMMINGS: Okay, I have that already.

MR. MORRISSEY: All right.

MS. CARROLL: Do we have a Bates stamp number on it?

MR. MORRISSEY: We do.

BY MR. MORRISSEY:

Q I'm going to ask you to turn to page 284 on this group exhibit. It's a document entitled Implementation Plan: Accessibility Provisions of Agreed Order, U.S. versus Cook County and it goes from Bates Stamp 284 through 291; do you see that document?

A Yes.

Q And, in fact, if we look at 291 -- or actually, I'm sorry, 292, there's a spot for your signature?

A Yes.

Q I assume that you reviewed this document before?

A Yes, but this appears -- I don't know if this is the final or not because it's not

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signed by anybody. So as far as I'm concerned, it's a draft copy.

Q But in any event, you signed --

A Not this document.

Q A document that said Implementation Plan?

A A document, but not this one.

Q When was the document executed by you roughly, in what year?

A Are we talking about this document or another document.

Q Well, we'll establish whether or not there's a different version at some point?

A At some point, but you're going to ask me whether I signed this or not. Obviously I didn't because I didn't sign it. There's no signatures from anybody.

Q This document was turned over in this case, CC Wade 284. So it was turned over by your attorney.

MR. MORRISSEY: I assume that this is a final version; is that correct, Ms. Carroll?

MS. CARROLL: I thought I had given

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the final version that was sent to me, but I don't know. We were having problems with the printer. I'm not sure which one -- if this is the final version or not. If it's not the final version because it's not signed, I will try and get the final version for you.

MR. CUMMINGS: Why don't you ask if it's substantially similar.

BY MR. MORRISSEY:

Q Looking at this document, does it appear to be substantially similar to what was turned over yesterday by your attorney in the Wade case?

MR. CUMMINGS: To the one you signed.

MS. CARROLL: To the one you signed.

MR. CUMMINGS: There we go.

BY THE WITNESS:

A It has the basic format, but there may be some substantial or significant changes to it from the final version.

BY MR. MORRISSEY:

Q Looking at the first page of that implementation plan, are you aware that Cook

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County entered into an agreement -- agreed order with the U.S. Department of Justice --

A Yes.

Q -- in 2010?

A Yes.

Q And part of that agreed order --

A Well, it started in May 2010.

Q Okay. Part of that agreed order provided that Cook County shall build out, remodel or renovate clinical space as needed to provide appropriate housing for inmates with disabilities?

A Yes.

Q Are you aware that --

A And I can add that those alterations were directed by the Department of Justice and complied with by the County.

Q Are you aware that the United States Department of Justice sent a letter on May 10th 2012 to Cook County and the Sheriff to address violations under the ADA?

A I'm also aware what led to that.

Q Yes or no?

A I'm aware what led to that was the

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Sheriff inviting the Department of Justice to do an assessment and to provide feedback and --

Q Mr. Gumm, my question required a yes or no. My question was are you aware that the United States Department of Justice sent a letter on May 10th, 2012 to address violations of the ADA at the Cook County Jail?

A Do you have the letter because I don't know the exact date.

Q Well, if we look at Paragraph C on what's the first page of this implementation plan --

A Okay.

Q -- it says in order to comply with these provisions of the agreed order and to address the violations noted in the United States Department of Justice letter of findings dated May 10th, 2012, Cook County has taken and will continue to take the actions required under this implementation plan.

A Yes.

MR. CUMMINGS: Tom, I'm going to only object briefly because this obviously took place prior to Mr. Gumm's employment with

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the County. So if you're stipulating or at least insinuating that the facts or whatever is in this document are true because you're asking him to acknowledge that that happened.

BY MR. MORRISSEY:

Q Well, you signed an implementation plan, correct?

A Yes.

Q Part of the implementation plan involved resolving some of the findings by the United States Department of Justice given in May of 2012?

A Yes, and the County has complied.

Q Under the implementation plan, did the County hire you as the ADA compliance officer?

MS. CARROLL: Objection to the form of the question and misrepresents past testimony.

MR. CUMMINGS: Also misrepresents the documents of -- again, assuming that that question is based on the document.

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BY MR. MORRISSEY:

Q Well, if we look at the next page on 285 under F (sic), the last sentence: In addition, Capital Planning hired an ADA compliance officer who has been and will continue to be responsible for evaluating and addressing ADA issues.

MS. CARROLL: Yes, Capital Planning.

MR. CUMMINGS: That would be him.

BY MR. MORRISSEY:

Q Are you the person that they hired.

A I am.

Q Was the County required to implement this agreement within two years?

A Yes.

Q Did the implementation plan permit the use of shower chairs in Cermak?

A Yes.

Q Did that permission to use shower chairs also require Cermak to train staff to provide assistance when necessary to transfer from a wheelchair to a shower chair?

MS. CARROLL: Objection, form.

BY THE WITNESS:

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A My signature on this was to have a signatory for Capital Planning to comply with the Capital Planning portion of the implementation plan.

There's also other signatures that are responsible for other areas of the implementation plan; and as testified earlier, I do not have any direct control over training of nursing staff.

Q I didn't ask you that.

A Or anything with the nursing staff.

MR. MORRISSEY: Can you repeat the question?

BY MR. MORRISSEY:

Q Maybe you can answer it then.

A And what page are you on when you're --

MR. CUMMINGS: He's probably asking about 287, Subparagraph B at the top. So my objection would be that it's outside the scope of this particular witness' knowledge.

BY MR. MORRISSEY:

Q Calling your attention to what

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Mr. Cummings wants you to look at on Page 287, what's been marked as Wade 287, under the Implementation Plan, do you see where it says CCDOC and Cermak will ensure that staff is trained to provide safe operation of the shower chair with inmates, including assisted transfer, as needed?

A I see that it says that, yes.

Q Is that your understanding of the Justice Department's requirement when using a shower chair for a wheelchair-bound person in the shower?

MR. CUMMINGS: Objection to the form of the question. You can answer.

BY THE WITNESS:

A The words that you are using are misrepresenting. You're saying DOC required. This is an agreement between DOC, and it's a joint agreement, not a requirement. So it's different than -- It's different than what a requirement is because it is a joint agreed order.

BY MR. MORRISSEY:

Q Are there any consequences, to your

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knowledge, if the Defendants don't comply with the implementation plan?

A To my knowledge, this has already been complied with.

Q Do you know if the nursing staff has received any training as far as assisting inmates transferring from their wheelchair to a shower chair in the shower?

A The knowledge I have is that all the elements of the implementation plan has been complied with successfully with the Department of Justice.

Q Do you have any personal knowledge whether or not the nursing staff has been trained to assist wheelchair-bound detainees transferring from a wheelchair to a shower chair?

MR. CUMMINGS: Objection, asked and answered.

BY THE WITNESS:

A Yes. If the agreed implementation plan has been fully achieved, then I would assume that, yes, all of the items in there have been complied with.

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Q The question is personal knowledge.

A So are you asking me personally or in my position as an agent of the County.

Q I'm asking you personally. Do you have any personal knowledge whether or not the nursing staff has received training to assist inmates transferring from a wheelchair to a shower chair when taking a shower?

MS. CARROLL: Objection, form.

BY THE WITNESS:

A Again, I have answered that by saying I don't have control over the nursing staff or any of their training. That is a Sheriff's Department responsibility.

MR. CUMMINGS: Well, objection to that.

THE WITNESS: No?

MR. CUMMINGS: No. And with that answer, I need to take a break.

BY THE WITNESS:

A Oh, no, it's Health and Hospitals. (WHEREUPON, a short break was had.)

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BY MR. MORRISSEY:

Q On August 16, 2014 --

MS. CARROLL: Are we back on?

MR. MORRISSEY: Yeah.

MS. CARROLL: Okay.

BY MR. MORRISSEY:

Q On August 16, 2014, do you know why Mr. Wade was not assigned to the quote, unquote, handicapped accessible room, 3215?

MR. CUMMINGS: Objection, outside the scope and knowledge of this witness. If you happen to know, you can answer.

BY THE WITNESS:

A You got me. I have nothing to do with it.

BY MR. MORRISSEY:

Q As the ADA director for Capital Planning, do you know why the Sheriff or the Cermak employees would place Mr. Wade in 3205 instead of 3215 on August 16, 2014?

MR. CUMMINGS: Objection to the form of the question. You can answer.

MS. CARROLL: Same objection.

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BY THE WITNESS:

A Again, I have no knowledge why anybody is assigned a room for any reason, and I have no responsibility or authority in that realm.

BY MR. MORRISSEY:

Q You mentioned that you've reviewed deposition testimony of other plaintiffs in wheelchair ADA cases, correct?

A Yeah, yes.

Q Do you have knowledge that other wheelchair-assisted prisoners had been placed in the nonADA rooms in Cermak?

MR. CUMMINGS: Objection, timeframe.

BY MR. MORRISSEY:

Q In 2014?

A I know that there have been wheelchair-bound detainees that have been put in rooms that are not designated with the ADA elements, the elements that met the '92 standards.

Q Do you know why wheelchair-assisted prisoners in the year 2014 were placed in hospital rooms that didn't comply with the ADA

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elements of either 1992 or 2010?

A Again, I would have no reason to know why.

Q Have you -- Did you do any investigation as the ADA director to find out why wheelchair-assisted prisoners were placed in Cermak rooms in the year 2014 which didn't have the ADA elements?

MR. CUMMINGS: I'm going to object to the question. It's outside the scope of the witness. It's the last question I'm going to sort of accept to being asked before I tell the witness not to answer because he has no knowledge. He's already testified four or five times.

BY MR. MORRISSEY:

Q Let him --

A Again, we go back to the time that you were questioning me about my job description, and you're making assumptions that this is a Countywide over the over the Sheriff, over Health and Hospitals, over the forest preserve, over every entity in the Cook County and that is totally erroneous. This is a job

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description for the Department of Capital Planning, not for other departments and directing them.

Q Looking at Page 316 in Wade, which was turned over yesterday.

A What page?

Q The last page of group exhibit -- is it 7? Is it 9? Group Exhibit 10.

MR. CUMMINGS: It's not the last page, but yes.

BY MR. MORRISSEY:

Q It's CC Wade 316?

A Yeah.

Q Have you seen this document before?

A I saw it this morning for the very first time.

Q Do you know who was responsible for preparing it?

A No, I do not.

Q Do you know if -- when you looked at, is it accurate in regards to the -- in September of 2015, the rooms in Cermak that were ADA accessible?

MR. CUMMINGS: Objection to the form

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of the question, but you can answer.

BY THE WITNESS:

A A cursory review of it, it seems to be in order.

BY MR. MORRISSEY:

Q Does this also include rooms that are in the RTU?

A No, it does not. It just says Cermak Infirmary.

Q Room 3205 is not on the list as being one of the ADA rooms?

A It is not designated as one that has the ADA accessible elements.

Q Have you personally seen what's labeled Cook County Jail Accessibility Evaluation?

A Pardon?

Q Have you seen a document which is described as -- which is titled Cook County Jail Accessibility Evaluation?

MR. CUMMINGS: You mean this one, Tom?

MR. MORRISSEY: I believe so.

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BY THE WITNESS:

A What page is that?

BY MR. MORRISSEY:

Q They're pages 293 to 311 in Group Exhibit 10?

A Yes.

Q When was the first time you saw that document?

A It would have been, I believe, in July or August of 2014 I was made aware of it.

Q Is the information contained in this Cook County Jail Accessibility Evaluation, is this part of the findings that the Justice Department made?

A This is the findings, yes.

Q So is this called the Barriers Report?

A Yes, it is.

MS. CARROLL: This is dated 4/24/14 on the bottom?

MR. MORRISSEY: That's correct.

BY THE WITNESS:

A This is not the final one.

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BY MR. MORRISSEY:

Q What date is on the final barrier?

A 8/31 of '14.

Q How does it differ from the April 24, 2014 Barrier Report?

A I'm not sure how it differs except more updated form. This was a reporting form back to the Department of Justice on the progress. So there are progressive working documents.

Q Does this document reflect accessibility on third floor west of Cermak?

A I believe it covers that.

Q On what page would 3-West be covered?

A Okay, it starts on page 11 of 19, and Cermak goes through into page 14 of 19.

Q Where specifically do they mention 3-West?

MR. CUMMINGS: You mean 3-West?

MR. MORRISSEY: 3-West.

BY THE WITNESS:

Q I don't see a heading for 3-West. I don't see a heading specifically for 3-West.

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BY MR. MORRISSEY:

Q Have you ever visited or inspected Division 2, Dorms N and M?

MS. CARROLL: You know what, we're going to object because Carl Wade has not testified that he had any problems on Division 2, M or N when he was there, which was the last time he was incarcerated, which was prior to 2013. This case has nothing to do with Division 2, Dorm 2 and I'm going to instruct him not to answer.

MR. MORRISSEY: Well, is it your position -- Is it going to be your position at trial --

MS. CARROLL: We're not going to talk about --

MR. MORRISSEY: Is it your position at trial that Cermak was overcrowded. Therefore, he was placed in Room 3205.

MS. CARROLL: That has nothing to do with anything.

MR. MORRISSEY: Is that your position?

MS. CARROLL: That has nothing to do

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with anything.

MR. MORRISSEY: Is it your position or not?

MR. CUMMINGS: You have the answers to the interrogatories.

MR. MORRISSEY: And you said that in your interrogatories.

MR. CUMMINGS: Nobody said it was overcrowded in our interrogatories. We said the rooms were already occupied, so they put him in 3205.

Our position at trial is that Carl Wade was on electronic monitoring and he was at home, and he decided to escape. In which case, he had to come to the custody of the Sheriff and the Sheriff had to make room for him because he was being held no bail; and as a result they put him in Cermak --

BY MR. MORRISSEY:

Q Were Dorms M and N in August and September of 2014 in Division 2 used to hold wheelchair-bound detainees?

A When?

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1 Q In August and September of 2014?

2 MS. CARROLL: You can answer this

3 sole question. Any follow-ups that have

4 nothing to do with Wade, you are not to

5 answer. This question you can answer.

6 BY THE WITNESS:

7 A I have no idea who was housed in Dorm

8 2.

9 BY MR. MORRISSEY:

10 Q Does the report, the Cook County

11 Accessibility Evaluation Report address

12 Division 2?

13 A Yes.

14 Q What page is that?

15 A Division --

16 Q 2, Dorms M and N?

17 A Division 2, Dorm 2?

18 Q Yes, Dorm 2, correct?

19 A That starts on page 5, and ends on

20 Page 6.

21 MR. CUMMINGS: It's 297, 298.

22 BY THE WITNESS:

23 A 297, 298.

24

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1 BY MR. MORRISSEY:

2 Q Do you know if in Division 2, Dorm 2,

3 M and N, there were alterations in the year

4 2013 to make it ADA accessible?

5 MR. CUMMINGS: I'm going to object

6 only because it's not clear from this

7 document that it was done in M and N, but

8 you can go ahead and answer.

9 BY THE WITNESS:

10 A Division 2, Dorm 2, is indicated as

11 typical housing dormitories, which means that

12 it was applied to all of the tiers within it.

13 BY MR. MORRISSEY:

14 Q How many wheelchair-bound detainees

15 could Tier M hold at any one time?

16 A I don't know.

17 Q Have you ever visited Tier M in

18 Building 2, Division 2?

19 A I have been in Division 2, Dorm 2. I

20 don't recall the specific dorms.

21 Q What floor were you in?

22 A I was on floors 1 and 2.

23 Q Was that in 2014?

24 A It was late '14 or early '15. I

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1 think it was in '14.

2 Q Did you go into the tiers?

3 A I went into a couple of them, yes.

4 Q Did any of the tiers have ADA

5 accessible elements?

6 MS. CARROLL: I'm going to object,

7 again. Carl Wade said he had absolutely no

8 problems the last time he was at the Cook

9 County Jail when he was in Division 2, Dorm

10 2. He had absolutely no problems

11 whatsoever, toileting, showering, any of

12 those things.

13 So this line of questioning has

14 nothing to do with this case. He actually

15 wanted to go to Division 2, Dorm 2 as he

16 testified in his deposition.

17 MR. MORRISSEY: Right.

18 MS. CARROLL: But as for where he was

19 housed, he was housed in the RTU and the

20 Cermak infirmary; and as I stated in my

21 letter to you, we were not going to go into

22 Division 2, Dorm 2.

23 MR. MORRISSEY: Well, do you want me

24 to certify the question?

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1 MS. CARROLL: Go ahead.

2 MR. MORRISSEY: Because --

3 MS. CARROLL: Go ahead.

4 MR. MORRISSEY: You're going to --

5 well, let me ask the question because

6 you're going to make an argument or the

7 Sheriff is going to make an argument that

8 there was no other space than Room 3205 or

9 the RTU to place Mr. Wade.

10 MR. CUMMINGS: So if that's the

11 argument, why are you asking that of

12 Mr. Gumm.

13 MR. MORRISSEY: Well, I'm asking him

14 whether or not there were facilities in

15 Division 2 to house wheelchair-bound

16 detainees in the year 2014.

17 MR. CUMMINGS: And he's already

18 answered that he doesn't know.

19 MR. MORRISSEY: Well, no, he hasn't

20 answered that.

21 MR. CUMMINGS: Yes.

22 MS. CARROLL: He did.

23 MR. MORRISSEY: He did not.

24

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BY MR. MORRISSEY:

Q I asked him are there elements in -- on the first floor of Division 2, Dorm 2 which have ADA elements?

A The very simple answer is if you read the document, that is typical for all dorms what was done and you can read what was done.

Q So the response is what?

A That it's there on the document as anyone can read.

Q Do they have an accessible toilet in --

A What does the document say?

Q Well, you can look at the document. You're the expert and tell me.

MS. CARROLL: Again, none of this is remotely relevant to Mr. Wade, and I would like to believe that you're not going to try to use this in your other cases like you usually do, which is highly unethical and I'm asking you not to ask these questions of Mr. Gumm considering it has nothing to do with Mr. Wade and you're just wasting time.

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BY THE WITNESS:

A Do you want me to read everything that was done or addressed? Tables, shower grab bars, accessible shower, lavatory knee space, toilet seat were all addressed.

BY MR. MORRISSEY:

Q And that's in Division 2 --

A Division 2, Dorm 2.

Q -- Dorm 2?

A Yes.

Q Do you know how many beds were in Division 2, Dorm 2's wings?

A No.

Q Approximately 30; would that be a fair estimate?

A I just said I have no idea. I don't know.

Q Do you have any idea how many wheelchair-bound detainees could be housed in Division 2, Dorm 2 in August of 2014?

A You've asked me that before, and my answer was no.

Q Now, let's talk about the RTU for a moment. Are you aware that Mr. Wade was housed

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in the RTU, Dorm 3-D?

A 3-D?

Q 3-D as in dog?

A No.

Q Are you familiar with the RTU in Dorm 3, 3-D as in dog?

A I am familiar with the RTU. I am not as familiar with the Sheriff's numbering system because it differs from the floor plans.

Q Do you know if there are any dorms in the RTU that are accessible?

A Yes.

Q Showing you what's in front of you in Group Exhibit 10, Wade 342?

A It only goes to 316. In Exhibit 10?

Q Ms. Carroll has it in front of you, Wade 342 of Exhibit 10.

MS. CARROLL: It's not an exhibit.

A It's not in Exhibit 10.

Q Well, can we mark that as Exhibit Number 11? Can I have that back, please? Calling your attention to Group Exhibit 10, what is marked as CC Wade 342 for a moment.

A Oh, it's out of sequence. Okay,

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sorry.

Q Is that a diagram of the third floor of the RTU building?

A That is a floor plan of the third floor RTU Building, Division 8.

Q Is it dated?

MR. CUMMINGS: If it is, we couldn't see it.

BY THE WITNESS:

A Boy, there are several dates on it.

BY MR. MORRISSEY:

Q What are some of the dates?

A I can't read them from this copy.

Q Have you previously seen floor plans of the third floor of the RTU?

A Yes.

Q Where approximately is Dorm 3-D?

A I don't know the Sheriff's numbering system because it differs from these plans.

Q Do you know looking at the plan, which is part of Group Exhibit 10 for the third floor, do you know where dorm -- the dorms are located?

A Yes, the tiers?

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Q The tiers.

A **Yes, there's tiers, and cell blocks.**

Q How many tiers are there on the third floor of the RTU?

A **Six.**

Q Are they numbered, to the best of your knowledge?

A **The rooms are numbered, yes.**

Q Do each of the dorms on the third floor of the RTU have accessible elements?

A **Yes.**

Q What do you mean by having accessible elements?

A **They have elements within the tiers that are useable by those with disabilities.**

Q Do you know if any of the elements -- Do you know if in -- Strike that.

In August and September of 2014, do you know if some of the elements in the dorms on the third floor for bed clearance were not consistent for -- under the 2010 standards?

MR. CUMMINGS: Objection to the form of the question, but you can answer.

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BY THE WITNESS:

A **Does it meet the requirements of the 2010 standards, yes, it does.**

BY MR. MORRISSEY:

Q Were there any barriers that you're aware of in August and September of 2010 in the six dorms on the third floor of the RTU building?

A **Okay, there's something that you obviously don't understand is that any building when it is built, to meet the standards, will always have barriers whether it's a new building or not.**

Q That's not my question.

A **So it's obvious that not everything -- not every element within the building is an accessible element.**

Q All right, but what I'm asking you -- I asked you do you have personal knowledge of any barriers in the dorms on the third floor of the RTU building in September and August of 2014?

MR. CUMMINGS: I'm going to object to the form of the question. It's vague but

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you can answer if understand what he's talking about.

BY THE WITNESS:

A **The dorms are built to meet the standards, and it is -- meets all of the circulation, the housing requirements, the toileting, the showering, the telephone, it meets the standards. So I'm not sure what it is that you're really asking.**

BY MR. MORRISSEY:

Q Well, the question was do you have any personal knowledge of there being any barriers, for instance, the desks that are physically in the dorms on the third floor of the RTU building not being accessible to wheelchair-bound detainees?

MS. CARROLL: Objection, form.

BY THE WITNESS:

A **Again, it's a misunderstanding of what design meeting the 2010 is, but there are going to be desks and stuff that is meant -- or that are built for able-bodied, and there are also desks and elements that are built for disabled individuals.**

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BY MR. MORRISSEY:

Q Have you received any grievances or reviewed any grievances as -- in your position with the County in regards to barriers on the third floor of the RTU from wheelchair-bound detainees?

A **I don't review grievances from the department.**

Q Have you looked at any grievances or consulted or spoken to Marlene Fuentes in regards to grievances concerning barriers on the third floor of the RTU?

MS. CARROLL: Objection, compound.

BY THE WITNESS:

A **I have spoken to Marlene Fuentes about items that can be addressed to improve the accessibility or some of the elements within the --**

BY MR. MORRISSEY:

Q All right.

A **And it's to add expansion and capacity to the building.**

Q On the third floor of the RTU, how many wheelchair-bound detainees can be housed

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1 in each of the dorms?

2 **A In each of the tiers, there are two.**

3 Q By "two," you mean there are two beds
4 in each of the dorms that can accommodate a
5 wheelchair-bound detainee?

6 **A Two beds and a desk.**

7 MR. CUMMINGS: Objection to the form
8 of the question, but you can answer.

9 BY THE WITNESS:

10 **A Two beds and desk combinations.**

11 BY MR. MORRISSEY:

12 Q On the diagram, which is in front of
13 you, can you circle in each of the dorms the
14 two beds that are designated to be used by
15 wheelchair-bound detainees?

16 MR. CUMMINGS: I'm going to object to
17 foundation because it's not clear. The
18 document is so small. We can't see the
19 date. I'm not sure this is the final
20 drawing; but if you know where they are,
21 you can circle them.

22 BY THE WITNESS:

23 **A I know where they are.**
24

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1 BY MR. MORRISSEY:

2 Q Okay.

3 **A And they are those two (indicating),**
4 **okay?**

5 Q Okay. Could I look and see what you
6 have marked?

7 **A (Document tendered.)**

8 Q So on the third floor of the RTU,
9 twelve beds have been designated to be used by
10 disabled individuals?

11 **A Twelve beds were designed to**
12 **accommodate individuals with disabilities.**

13 Q In each of the six dorms on the third
14 floor of the RTU, how many toilets are
15 designated for having the elements that are
16 accessible for a wheelchair-bound prisoner?

17 **A One in each tier.**

18 Q In each of the dorms on the third
19 floor of the RTU, how many tables are
20 designated to be used by wheelchair-bound
21 detainees?

22 **A They were indicated -- They've been**
23 **indicated at the ends of the tables, and there**
24 **are -- I believe there are six tables.**

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1 MR. CUMMINGS: In each tier?

2 THE WITNESS: In each tier. It's
3 somewhere around that number.

4 BY MR. MORRISSEY:

5 Q How many beds in each dorm on the
6 third floor of the RTU are there?

7 **A I don't recall the exact number.**

8 Q For the -- You mentioned the two beds
9 in each dorm are designated for
10 wheelchair-assisted prisoners, correct?

11 **A Two beds in each dorm are designated**
12 **as beds for individuals with disabilities.**

13 Q Do you know if the other beds in the
14 dorms have tables or chairs that could be an
15 obstruction -- could be a barrier for a
16 wheelchair-bound detainee transferring to a
17 bed?

18 **A This is to the point I was getting to**
19 **before is all buildings, brand new buildings,**
20 **will have elements in there that are barriers.**
21 **It's just not understanding what design and**
22 **meeting the ADA are all about?**

23 Q You're not answering my questions.

24 **A Yes, I am. You're just not**

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1 **understanding the correct answer.**

2 Q Well, we're not communicating,
3 Mr. Gumm. My question -- Let me ask you the
4 question. Are some of the beds in the dorms --
5 Are there barriers adjacent to the beds in the
6 RTU that could be a barrier to a
7 wheelchair-bound detainee transferring to a
8 bed?

9 MS. CARROLL: Objection, form,
10 foundation, makes no sense.

11 BY THE WITNESS:

12 **A Again, every building -- This was**
13 **built to meet the ADA standards and was**
14 **reviewed by the Department of Justice during it**
15 **and meets the standards and every building**
16 **brand new will have barriers that could -- or**
17 **elements that could be a barrier to an**
18 **individual with a disability.**

19 BY MR. MORRISSEY:

20 Q Do you have personal knowledge that
21 the Sheriff or Cermak only assigns wheelchair-
22 assisted prisoners to the two beds in each dorm
23 that are accessible?

24 **A We have been down this road before.**

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1 I have no knowledge of anywhere on the DOC that
2 has to do with bed assignments and who gets
3 what bed.

4 Q If a wheelchair-bound detainee was
5 assigned to, let's say, 3-D, the third dorm on
6 the RTU and he was assigned to one of the
7 nonaccessible beds, to your knowledge, are
8 there barriers that would -- may not provide
9 clear space to transfer from a wheelchair to
10 the bed?

11 MR. CUMMINGS: Objection to the form
12 of the question in terms of accessible, in
13 terms of accessibility, but you can answer.

14 MS. CARROLL: And also, he has
15 already stated he doesn't know what 3-D is.
16 BY THE WITNESS:

17 A Well, any of the tiers does have
18 clearance to transfer to any of the beds.
19 BY MR. MORRISSEY:

20 Q Have you as the ADA coordinator and
21 director approved any changes to the third
22 floor of the RTU to make it -- to make greater
23 accessibility?

24 MR. CUMMINGS: Objection to the form

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1 of the question.

2 BY THE WITNESS:

3 A What do you mean "approved"?

4 MR. CUMMINGS: Also timeframe.
5 Sorry.

6 MR. MORRISSEY: Let me rephrase the
7 question.

8 BY MR. MORRISSEY:

9 Q To your knowledge, since joining Cook
10 County, have there been any alterations on the
11 third floor of the RTU to create greater
12 accessibility for prisoners?

13 A There have not.

14 Q Are there any plans to create
15 additional accessibility in the dorms on the
16 third floor of the RTU?

17 A Yes.

18 Q What plans are there?

19 MR. CUMMINGS: Objection, timeframe
20 and also outside the scope of this case.
21 If we're talking about future plans, I
22 would direct you not to answer.

23 BY MR. MORRISSEY:

24 Q Well, you can answer.

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1 MS. CARROLL: Well, can you re-ask
2 the question?

3 MR. MORRISSEY: You can read it.

4 (WHEREUPON, the record
5 was read as requested.)

6 MS. CARROLL: Yeah, I'm going to
7 instruct him not to answer because that
8 doesn't have to do with the Wade case.

9 MR. MORRISSEY: Well, Ms. Carroll --

10 MS. CARROLL: Yeah.

11 MR. MORRISSEY: -- I believe the man,
12 Mr. Wade, grieved about conditions in the
13 RTU, which included barriers that presented --
14 were presented to him in the housing
15 setting. So I think it is relative and
16 probative.

17 MS. CARROLL: That was in 2014. He
18 was there for six weeks.

19 MR. MORRISSEY: This case is 2014.

20 MS. CARROLL: Correct.

21 MR. MORRISSEY: Right, so I'm trying
22 to ask this gentleman about plans in
23 regards to creating greater accessibility.

24 MS. CARROLL: He already said it was

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1 accessible. So the purpose of asking that
2 question is for other cases and not this
3 case because it doesn't affect Mr. Wade.

4 MR. MORRISSEY: You may have your
5 thoughts, but it certainly has a burying on
6 whether or not Mr. Wade was provided an
7 accessible setting when he was assigned to
8 Dorm 3-D.

9 BY THE WITNESS:

10 A In fact, he was provided an
11 accessible setting because every tier was
12 accessible.

13 BY MR. MORRISSEY:

14 Q You don't know what bed Mr. Wade was
15 assigned to?

16 A I don't know what bed he was assigned
17 to, but the dorm -- the tier in and of itself
18 is accessible and provides an accessible
19 environment.

20 Q Can each dorm accommodate more than
21 two wheelchair-bound detainees?

22 A It depends.

23 Q What does it depend upon?

24 A It depends upon where they're

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1 assigned, and the only barrier that would be
2 presented would be the stool at the desk; and
3 if they are provided an alternate accomodation
4 which it is, then they can be.

5 Q Why would the stool for the bench
6 present a barrier to a wheelchair-bound
7 detainee?

8 A Because it's attached to the concrete
9 floor. It's not moveable.

10 Q Are there any beds on the third floor
11 of -- the third floor of dorms of the RTU that
12 do not allow a clear transfer space to the bed
13 for a wheelchair-bound detainee?

14 A Not that I'm aware of. The transfer
15 for space is 30 by 48, and I believe all of the
16 beds will accommodate a 30 by 48 area to
17 transfer onto the bed.

18 Q Are you familiar with the segregation
19 cells in the RTU?

20 A Yes.

21 Q Are you familiar with segregation
22 cell 3A-1?

23 A I'm not sure I can identify which one
24 that is.

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1 Q Looking at 342, does it reflect
2 segregation cells on the third floor of Cermak?

3 A Yes, on the west end of the building.

4 Q Can you -- How many segregation cells
5 are there on the third floor of the RTU?

6 MR. CUMMINGS: I'm going to object to
7 the form of the question in terms of
8 segregation. I believe it's just cell
9 blocks.

10 BY THE WITNESS:

11 A Cell blocks. There are nine per cell
12 block, and there are two cell blocks.

13 BY MR. MORRISSEY:

14 Q Are there ten rather?

15 A Ten, yes, thank you.

16 Q So there's ten cell blocks, correct?

17 THE WITNESS: Thank you, Patrick.

18 BY THE WITNESS:

19 A Ten on each, so a total of 20.

20 BY MR. MORRISSEY:

21 Q So on the third floor, there's ten
22 cell blocks; and on the fourth floor, there are
23 also ten cell blocks?

24 A Yes, the floors mirror each other.

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1 Q Is there a common day room for the
2 ten cell blocks on the third floor?

3 A Yes.

4 Q In each of the ten cell blocks on the
5 third floor of the RTU building, does it have
6 the required ADA elements?

7 A Yes.

8 Q So each of the cells --

9 A You didn't ask that. You asked if
10 the cell block had --

11 Q Well, let me rephrase it then. Do
12 each of the cells -- all right, you caught me
13 there.

14 MR. CUMMINGS: If I can just for a
15 second. I'm looking at this diagram --

16 MR. MORRISSEY: Do you want to sit at
17 the table over here and you can pose the
18 questions.

19 MR. CUMMINGS: The diagram identified
20 in the cell block area, in one of the cells
21 there are four beds.

22 MR. MORRISSEY: Mr. Cummings, are we
23 taking your deposition?

24 MR. CUMMINGS: No. What I'm saying

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1 is the final drawings should only reflect
2 two is my understanding. This diagram has
3 four.

4 MR. MORRISSEY: Do you want to get
5 the final drawing if it's back in your
6 room.

7 MR. CUMMINGS: I don't have it. I
8 have presented a similar document to
9 Patrick before, and I was told Joan Kunz
10 said it was the wrong one and you have
11 already deposed her.

12 BY THE WITNESS:

13 A I'm familiar with the final product.

14 BY MR. MORRISSEY:

15 Q The ten single cells on the third
16 floor of the RTU, do each of those cells have
17 the required ADA elements?

18 MR. CUMMINGS: Objection to the form
19 of the question.

20 BY THE WITNESS:

21 A You're using the word required.

22 BY MR. MORRISSEY:

23 Q Let me rephrase it then. How many
24 cells, single cells, on the third floor of the

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RTU have grab bars, elevated toilets, clear floor space around the toilet, the 2010 standards?

A Two cells have the grab bars and all of the cells have the toilets and sinks.

Q In 2014 -- In 2014, in August of 2014, how many cells on the third floor had all of the elements under the 2010 ADA act?

A I just answered that. Two cells had the grab bars, and all of the cells have toilets and sinks.

Q Which two cells in August and September of 2010 had grab bars?

A According to this is Cell 1 and Cell 5 in each of the cell blocks.

Q I'd have you take a look at that again. Does it appear that Cell 10 is the cell that has the grab bars?

A That's the big one in the corner.

Q And that's what, cell --

A 5.

Q Okay.

A And Cell 1 by the stairs.

Q So would it be fair to say that only

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Cells 1 and 5 were designated to be used for wheelchair-assisted prisoners?

MR. CUMMINGS: Objection.

MS. CARROLL: Objection, form.

BY THE WITNESS:

A No, that's not a fair statement.

BY MR. MORRISSEY:

Q If the other eight cells lack grab bars, would that present a barrier -- could that present a barrier for a wheelchair-bound detainee?

A It depends upon their ability.

Q Under the ADA, would all ten -- would the -- who makes the determination whether or not --

A I have been through this. I don't know who gets assigned to what room.

Q The eight tiers in August and September of 2010 lacking grab bars, would it be fair to say that they do not meet all the requirements under the 2010 ADA standards?

A That is not a fair statement.

Q Why not?

A Because not all cells are required to

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meet all of the standards.

Q Only 10 percent are required, correct?

A Ahhh, you learned something.

Q Would the eight cells in August and September of 2014 lacking grab bars -- Let me ask a preliminary question. Are there 20 cells, individuals cells on the third floor of the RTU building?

A There are 20, two-person cells in the two cell blocks, ten in each.

Q And would it be correct to say four out of the 20 -- Strike that. Two out of the 20 cells on the third floor of the RTU building have grab bars --

A Yes.

Q -- under the ADA standards?

MS. CARROLL: Wait. Can you repeat that?

BY THE WITNESS:

A They have grab bars that meet the standards.

BY MR. MORRISSEY:

Q Okay, the other 18 cells on the third

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floor of the RTU lack grab bars?

A Which does not determine --

Q Is that true?

A That's true but that doesn't mean they don't -- they deny someone their civil rights by eliminating their opportunity for equal access.

Q How then does a person assigned to a cell -- Strike that. How does a wheelchair-bound detainee assigned to one of the 18 cells on the third floor of the RTU have equal access to a toilet if there are no grab bars?

A Well, there's a toilet in each cell, okay, and it depends upon their ability to whether they can use that or not, but there's also I have been told a policy that if they cannot use it without the use of grab bars, they are to notify the deputy and they will take them to the day room toilet for use, which meets their accommodation under the ADA.

Q Where do you base that knowledge?

A On the ADA.

Q No, who told you that you only need

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1 to knock and you can gain access to one of the
2 dayroom toilets?

3 **A I have been told by I believe it was**
4 **Sabrina, and I can't remember --**

5 MR. CUMMINGS: I don't remember her
6 last name.

7 BY THE WITNESS:

8 **A Rodriguez -- No.**

9 MS. CARROLL: Sabrina.

10 BY THE WITNESS:

11 **A Sabrina. She's the Sheriff's ADA**
12 **coordinator or compliance --**

13 BY MR. MORRISSEY:

14 Q How long has she been with the
15 County?

16 **A I have been told by her that there is**
17 **a written policy that the deputy is to escort**
18 **them to the dayroom toilet if they notify them**
19 **that they cannot use the provided facilities**
20 **within the cell, and I have no idea how long**
21 **she has been with the County.**

22 Q Do you have any idea whether or not
23 that policy was in place in August or September
24 of 2014?

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1 **A My understanding it was in place when**
2 **the building opened, but that's my**
3 **understanding.**

4 Q Based upon what?

5 **A I just told you, what I have been**
6 **relayed to by the Sheriff's ADA compliance**
7 **officer.**

8 Q Sabrina?

9 **A Sabrina.**

10 Q And Ms. Fuentes was the ADA
11 coordinator before her, correct?

12 **A Yes.**

13 Q And she was the ADA coordinator in
14 2014?

15 **A Yes.**

16 Q So based upon Sabrina's understanding
17 and what Ms. Fuentes understands --

18 **A No.**

19 Q Strike that.

20 **A Sabrina is the one that is in charge**
21 **of all of that. It's her job to know.**

22 Q Have you ever done anything to verify
23 that the Sheriff's procedure or practice is to
24 provide access for a wheelchair-bound detainee

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1 in the dayroom if their cell is not equipped
2 with grab bars?

3 **A Well, I was just told of that the**
4 **other day. So it was the first I learned of**
5 **the policy when I asked.**

6 Q Okay. Do you know what period of the
7 day on the third floor of the RTU individuals
8 that are in segregation are locked up?

9 **A I have no idea.**

10 Q Have you -- Strike that. Are you
11 familiar with the psych tiers on the third
12 floor of the RTU building?

13 MS. CARROLL: What do psych tiers
14 have to do with this case?

15 BY MR. MORRISSEY:

16 Q Are the psych tiers on the third
17 floor of the RTU building?

18 **A I don't know. I know that there are**
19 **psych tiers within the RTU, but I'm not sure**
20 **where they are located.**

21 Q Do you know the location of Room
22 3E-3-6-1 on the diagram?

23 **A That's the sheriff's numbering, and**
24 **I'm not familiar with it.**

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1 Q Would you know whether or not a --
2 Would you know whether or not a toilet --
3 Strike that.

4 You mentioned that in each of the
5 dorms on the third floor of the RTU, there's
6 one ADA accessible toilet, correct?

7 **A I'm sorry. Can you repeat that?**

8 Q You testified that there's one toilet
9 in each of the six dorms on the third floor of
10 the RTU, correct?

11 **A Yes.**

12 Q Do you have knowledge that in August
13 or September of 2014, the room -- the dorm that
14 Mr. Wade was assigned to, the toilet -- the ADA
15 toilet was broken?

16 **A I have no idea, no. That's a**
17 **maintenance issue; and just because it's broken**
18 **does not mean it's a violation of the ADA.**
19 **Things break.**

20 Q Do you have any knowledge in August
21 and September of 2014 -- Strike that.

22 Were you present on the third floor
23 of Cermak in August and September of 2014?

24 **A Again, I testified before I don't**

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1 recall that specific time period of whether I
2 was or wasn't.

3 Q When you inspected or visited the
4 third floor of Cermak in the year 2014, did you
5 see at times more than four wheelchair-bound
6 detainees placed in a living cell?

7 A No.

8 Q Do you have knowledge whether or not
9 Cermak was overcrowded with prisoners in August
10 and September of 2014?

11 A I have no direct knowledge, no.

12 Q Do you have indirect knowledge of the
13 living units being overcrowded in Cermak in
14 August of 2014?

15 MS. CARROLL: Objection, form.

16 BY THE WITNESS:

17 A I've been told at times that they --
18 that the tiers were -- or the dorms were full,
19 but I don't know which ones and what timeframe.

20 BY MR. MORRISSEY:

21 Q All right. Who told you that?

22 A Dave Badali was the facility manager
23 for Cermak.

24 Q Were you present with Marlene Fuentes

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1 when she spoke to wheelchair-bound detainees in
2 September of 2014?

3 MR. CUMMINGS: Objection to the form
4 of the question. It's vague.

5 BY THE WITNESS:

6 A About what?

7 BY MR. MORRISSEY:

8 Q About wheelchair accessibility at the
9 jail or in the court building?

10 MR. CUMMINGS: Also more foundation,
11 but you can answer if you understand what
12 he's talking about.

13 BY THE WITNESS:

14 A Well, I know that she spoke to the
15 detainees a lot about ADA and accessibility.

16 BY MR. MORRISSEY:

17 Q My question is in August and
18 September of 2014, were you present when
19 Marlene Fuentes spoke to prisoners in the RTU?

20 MR. CUMMINGS: Objection, foundation.

21 BY THE WITNESS:

22 A She spoke to them multiple times a
23 day for a long time. How do I know what time
24 you're talking about?

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1 BY MR. MORRISSEY:

2 Q I'm giving you a time period in
3 September of 2014. When you were present with
4 Ms. Fuentes --

5 A Can you narrow exactly what time,
6 what day or what subject she specifically --

7 MR. MORRISSEY: Go off the record.

8 (WHEREUPON, a discussion
9 was had off the record.)

10 MR. MORRISSEY: Back on the record.

11 Mr. Cummings is giving me helpful hints.

12 BY MR. MORRISSEY:

13 Q Were you present in September of 2014
14 when Ms. Fuentes discussed accessibility in the
15 court buildings with prisoners?

16 MS. CARROLL: Again, objection,
17 vague. That's not the question.

18 BY THE WITNESS:

19 A In the court buildings, no.

20 MR. MORRISSEY: All right. Let's
21 take a break.

22 THE WITNESS: I can help you out with
23 an answer to get to the question that you
24 need to ask.

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1 MR. MORRISSEY: Well, we will catch
2 that in a few minutes or maybe in the next
3 deposition.

4 (WHEREUPON, a short
5 break was had.)

6 BY MR. MORRISSEY:

7 Q Looking at Group Exhibit 10, there's
8 certain e-mails from you in regards to capital
9 improvements in the RTU.

10 A Okay.

11 Q Did you turn those over to your
12 attorney yesterday?

13 MS. CARROLL: Not yesterday.

14 BY MR. MORRISSEY:

15 Q Or within the last two weeks?

16 A I turned them over to my attorney.

17 MS. CARROLL: And FYI, I did try to
18 send it to you the day before, but it
19 wasn't attaching when I sent the responses.

20 THE WITNESS: Well, this is
21 completely out of order.

22 BY MR. MORRISSEY:

23 Q Looking at for one moment, there's an
24 e-mail, Wade 319, can you pull that up?

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A Well, I'm trying because they're not in order. Okay, 319. I got 319.

Q And you sent an e-mail to Marlene Fuentes, correct?

A Yes.

Q And the subject was RTU/RCDC ADA Grievances?

A Yes.

Q And what's OCPP?

A That is it the -- At that time, it was the Office of Capital Planning and Policy, which is now the Department of Capital Planning and Policy because our bureau changed names and merged with a couple other offices. So OCPP and DCPD are the same thing.

Q Division 8, ADA Grievance Response Final Document. Is that a document that you authored on September 4th, 2014?

A It's on Page 320, yes.

Q And you were responding to grievances or providing assistance to Ms. Fuentes in responding to grievances in regards to the new Division 8?

MS. CARROLL: Objection, form,

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compound.

BY THE WITNESS:

A No.

BY MR. MORRISSEY:

Q What is the purpose of --

A She told me that she had grievances, and I asked her to inform me what the subjects of the grievances were and that is what developed this document, and these are the seven things that she listed to me as the subjects of some of the -- or of the grievances that she had received to that date.

Q In looking at your summary of the grievances that were provided by Ms. Fuentes, there were grievances that addressed desk and tables that prevented use, correct, by wheelchair-assisted prisoners?

MS. CARROLL: Objection, form.

BY THE WITNESS:

A No, it just says desk table has stationary concrete that prevents use, and these are just grievances. They're not substantiated.

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BY MR. MORRISSEY:

Q All right, did you inspect or visit the RTU to see whether or not, in fact, some of the desks and tables in the dorms in the RTU did present a barrier to wheelchair individuals?

A I went to the RTU to look at what was there, what was built; and from that, I made my assessment.

Q Did you find that some of the desks and tables presented a barrier for wheelchair detainees?

A I think we have been down this road that there are elements in any building that will prevent -- will provide a barrier but that does not mean that the building or the facility or the room is not ADA compliant.

Q Including the RTU?

A Including the RTU, any building.

Q Were you asked to determine the number of wheelchair users that could be placed in a dorm in the RTU?

A Pardon?

Q Were some of the grievances about the

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fact that there were more wheelchair users in a dorm than the dorm was built to accommodate?

A That was not reflected in this memorandum.

Q Well, Number 5 is determining the maximum number of wheelchairs per tier; do you see that?

A Uh-huh.

Q What did you mean by that?

A That means that it's a calculation. It's the number of beds and the percentage and determining whether the number of beds was provided to meet the percentage of required total beds. That's what that means.

Q In every building at the jail, was there a requirement -- every new building that came online after 2010, is there a requirement that 10 percent have to be accessible for -- under the ADA?

A To be honest, I can't remember the exact percentage. I know that it was at 3 percent at one time and 5 percent; and I can't remember if it went to 10 or not, but there's a percentage.

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Q Let's assume that under the 2010 guidelines that anything that was altered or built after 2010 required 10 percent of the beds to be accessible for detainees?

A Okay.

Q If the jail or the Sheriff in August or September transferred all their wheelchair prisoners into -- onto the third floor of the new RTU, would that be permissible?

MS. CARROLL: Objection, form, incomplete hypothetical.

MR. CUMMINGS: Join.

BY MR. MORRISSEY:

Q Let me rephrase it.

BY MR. MORRISSEY:

Q If there were 12 beds in the dorms on the third floor of the RTU in September of 2014 and the Sheriff decided to transfer and place 50 wheelchair-bound detainees in those dorms, is that contrary to the spirit of the 2010 guidelines?

A Well, it would be contrary to the spirit of the 2010 ADA to put them in a room without any equal access for opportunity to use

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the programs as everyone else.

As it all boils down to, it boils down to abilities, individual ability. It's not a group thing. It's an individual's assessment and their individual needs.

So if they have -- you know, in the building they have ten that are paraplegic or quadriplegic and five of those can transfer to a toilet without the assistance of grab bars, they are still afforded the opportunity to use it and is not a violation of their ADA civil rights.

Just because the grab bars aren't there doesn't mean it's a violation.

Q Who made -- To your knowledge, who makes the decision at the jail in regards to what ADA elements are needed by each prisoner, wheelchair-bound prisoner?

A I have no idea.

Q If Dr. Defuniak in August of 2014 -- Do you know Dr. Defuniak?

A I know who -- Yes, I think I met him once.

Q If in August of 2014 it was

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determined that Carl Wade needed assistance as a wheelchair-bound detainee when he was incarcerated on the third floor of Cermak, would it be a violation of the ADA to place Mr. Wade in a hospital room that didn't have the ADA elements?

MR. CUMMINGS: Objection to the form of the question, incomplete hypothetical, vague, because we don't know what you mean by assistance; but you can answer.

BY THE WITNESS:

A It's an open-ended question that doesn't have a correct answer, which you're looking for a correct answer because you don't understand what the ADA is about then. That question just expresses that misunderstanding.

Q What does the -- Strike that. In September of 2014, did the eating tables in the new RTU, were they accessible in the dorms?

MS. CARROLL: Objection, asked and answered.

MR. CUMMINGS: Also objection to the form of the question.

BY THE WITNESS:

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A Again, it depends upon the individual's abilities and accessories and accommodations. Just because a table may or may not meet standards does not mean that it does not accommodate for the program.

Q If we turn to page -- the second page of your memorandum on September 4th, 2014, under 5, Determine the Maximum Number of Wheelchairs Per Tier.

A Yes.

Q And you made this statement: The maximum number of wheelchairs per tier is determined by the number of accessible beds, desks and table space provided in the tier. Available accommodation in other tiers should be considered prior to populating maximized tiers. What did you mean by that?

A That means that if there's available space in other tiers that is within the same security classification and they are able to place them in another tier rather than placing them in another bed, then that should be considered; but it's not my position to direct them. That is the purview of the Sheriff and

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1 **Health and Hospitals and whoever makes the bed**
2 **assignments and has those issues under**
3 **consideration.**

4 Q Would the same be true in regards to
5 placement in Cermak living quarters in August
6 of 2014, assuming when Mr. Wade, Carl Wade,
7 came into Cermak on August 16, 2014 the room or
8 rooms on 3-West which contained the ADA
9 elements was overcrowded --

10 MR. CUMMINGS: Objection.

11 BY MR. MORRISSEY:

12 Q -- should the Sheriff or the medical
13 staff have considered placing Mr. Wade in some
14 other area of the jail that could accommodate
15 his needs?

16 MS. CARROLL: Objection, incomplete
17 hypothetical.

18 MR. CUMMINGS: Also beyond the scope
19 and he's not been designated as an expert
20 in this case. So his opinion is not
21 relevant but you can answer.

22 BY THE WITNESS:

23 **A Again, I'm not privy to all the facts**
24 **in the case to even try to lend an opinion or a**

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1 **recommendation in that. If you don't have all**
2 **the facts, you can't make a determination.**

3 BY MR. MORRISSEY:

4 Q Well, what decisions or what
5 information did you have in regards to your
6 suggestion under Number 5?

7 **A That is a general statement and**
8 **recommendation. It, again, does not take into**
9 **account all of the other factors that go into**
10 **deciding who goes where.**

11 Q So that general recommendation for
12 the RTU if a particular dorm was over-populated
13 with wheelchair-bound detainees could also be
14 your general recommendation for Cermak if the
15 Cermak facility was overcrowded. A general
16 recommendation by you as the ADA director would
17 be to consider other spaces?

18 **A No, again, you're taking my position**
19 **out of context of my responsibilities in the**
20 **County and trying to give me more power than**
21 **what I have. Thank you very much. Do I get a**
22 **raise with that?**

23 **Again, it is a general broad**
24 **statement of what I believe is common sense,**

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1 **but it has nothing to do and has no bearing on**
2 **the particulars of a single individual's case.**

3 Q Why did you make the recommendation
4 in this memo on September 4th, 2014 if the RTU
5 dorms were over populated with wheelchair-bound
6 detainees?

7 MS. CARROLL: Objection.

8 MR. CUMMINGS: Objection to the form
9 of the question, misstates the testimony.

10 MS. CARROLL: Incomplete
11 hypothetical.

12 BY THE WITNESS:

13 **A Again, it's a general recommendation**
14 **without the consideration of any particulars.**

15 BY MR. MORRISSEY:

16 Q Did you discuss this with Marlene
17 Fuentes before you sent it?

18 **A No, I sent it to her as my opinion**
19 **and recommendations.**

20 Q After you sent this memorandum to
21 Marlene Fuentes, did you discuss it with her?

22 **A Yes.**

23 Q And when did you discuss it with
24 Marlene Fuentes?

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1 **A Within a few days.**

2 Q Did you discuss -- Who else was
3 present?

4 **A The telephone.**

5 Q Was anybody else on it?

6 **A No.**

7 Q Did you discuss your recommendation
8 in regards to the maximum number of wheelchairs
9 per tier?

10 **A We discussed each point but, again,**
11 **that was a general overview statement without a**
12 **consideration of particulars.**

13 Q What was Ms. Fuentes response to your
14 Number 5 about the maximum number of
15 wheelchairs per tier in the new RTU?

16 MS. CARROLL: Assumes facts not in
17 evidence, objection.

18 BY THE WITNESS:

19 **A Again, it depends upon the**
20 **particulars of each individual's case.**

21 BY MR. MORRISSEY:

22 Q Calling your attention to an e-mail
23 that you prepared on November 24, 2014 to
24 Ms. Fuentes -- I'm sorry. Ms. Fuentes sent you

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an e-mail on November 24th, 2014?

A What page are you on, please?

Q 317 and I gather it's your response. Okay, I'm sorry. Turn to Wade 317.

A Okay.

Q In there, do you send an e-mail to Marlene in regards to proposed scope of work for the RTU?

A Yes.

Q Why did you suggest the work that's under your scope of work?

A Because I felt that meeting the minimum standards or slightly over the minimum standards was not enough for the future in housing the detainees and that there was going to be -- I project there's going to be more space that needs to be allocated towards those individuals.

So my proposal was to expand the capacity of disabled detainees in the RTU since that was going to be the primary location of detainees that are lower security.

Q Do you know whether or not this work was ever done?

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A It's going -- Actually, today the Cook County Board is approving our new JOC contract, which this will be included in.

Q What else is included in the JOC contract?

MS. CARROLL: Again, it's beyond the scope, not relevant to this case.

MR. MORRISSEY: Well, it is.

MS. CARROLL: No, no, it's not.

BY THE WITNESS:

A The JOC contract --

MS. CARROLL: Don't answer.

MR. MORRISSEY: He's eager to talk about it.

BY THE WITNESS:

A It's benign. It's the hiring of the contractors to do future work. That's all it is.

BY MR. MORRISSEY:

Q At Cermak?

A Everywhere that capital planning does work. It is a program.

Q Mr. Gumm, are you going to be on vacation on June 14th or through June 16th?

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A I'm going to be out of town the 17th and 18th, and I was hoping the 16th but I'm aware of the dates.

Q Is that work related that you will be out of town?

A No.

Q Are you going to be in town on August 1st, 2016?

A No.

Q Will you be in town September 7th?

A To my knowledge, I will be. Unless I plan something real quick.

Q So you are not planning any vacation between September 7th and September 20th?

A I have no vacation plans during that time.

MR. MORRISSEY: I have nothing further.

MR. CUMMINGS: I would like to go ahead and make a record that the relevance of Mr. Gumm's availability for August 1st and September 7th have no bearing on this case.

MS. CARROLL: It has directly to do

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with the Lacy case, which you have been fishing for this entire time, and I'm sure the judge will be very appreciative of what you've done.

MR. CUMMINGS: It's not surprising but it's also low brow to ask the witness that on the record to try and trap him in some sort of whatever in order to -- after it has already been represented that he's not available for trial on those dates.

In any event, Mr. Gumm, I'm going to ask you some questions on behalf of the Sheriff.

C R O S S - E X A M I N A T I O N

BY MR. CUMMINGS:

Q Much, much earlier in the day, you testified as to what elements are under the ADA; do you recall that testimony?

A Yes.

Q And are these elements meant to provide opportunities to access -- Well, let me back up.

So the grab bars, are those elements -- the point of those elements to

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1 provide an opportunity to access a toilet for
2 somebody who is disabled?

3 **A They are accessible elements that**
4 **assist in providing opportunities to access the**
5 **program services.**

6 Q And additionally, are the
7 requirements -- not the requirements but the
8 specifications of some of these elements with
9 regard to sinks, are those in order to provide
10 opportunity to access or to make use of a sink
11 for a disabled individual?

12 **A Yes.**

13 Q You also provided testimony regarding
14 clear floor space required for beds; do you
15 recall that?

16 **A Yes.**

17 Q Do the beds in the RTU's dorm areas
18 meet this criteria for the beds?

19 **A I believe all of them have the clear**
20 **floor space for transfer for beds.**

21 Q What about the cell blocks, inside
22 the cell blocks?

23 **A Those also.**

24 Q Do you know when Division 5 was built

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1 at the jail?

2 **A No, I do not. What's the -- No.**

3 Q To the best of your knowledge, were
4 any renovations to that building required in
5 order to meet ADA standards? If you don't
6 know, that's fine.

7 **A They were -- Physical barriers are**
8 **not required to be altered. Public entities**
9 **under Title II have the opportunity to provide**
10 **accommodations to overcome barriers before**
11 **altering them.**

12 Q But Cook County made renovations at
13 least to Cell 34/5 anyway; isn't that right?

14 **A Yes.**

15 Q Now, there was a lot of testimony, a
16 lot of questions about Bullpen 34/5. When you
17 first joined Cook County, some renovations had
18 already been done; is that fair to say, to that
19 particular cell?

20 **A To?**

21 Q 34/5.

22 **A There were grab bars, if I recall.**

23 Q And you took steps to ensure that
24 they were actually redone to meet the 2010

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1 standards; is that correct?

2 **A I learned that they were -- that**
3 **Facilities Management was going to alter it and**
4 **the director of Facilities Management reached**
5 **out to me to review the work that was being**
6 **done. I visited the site and gave them a**
7 **report back on what it would take to provide**
8 **those elements they were planning on changing**
9 **to meet the standards.**

10 Q Now, you testified earlier, and I
11 can't recall which exhibit it was; but you
12 testified that there was clear floor space in
13 those bullpens in the, I guess, the basement of
14 Leighton Courthouse; do you recall that?

15 **A There was --**

16 Q Clear floor space to the toilets in
17 the bullpens even though they did not have grab
18 bars?

19 **A Are you talking about 34/5 or --**

20 Q I can't recall if it was 34/5 or if
21 it was in the bullpen of Leighton, but I'm
22 trying to find the exhibit.

23 **A I think all we talked about before**
24 **for bullpens was 34/5 and, yes, there was clear**

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1 **floor space for that and Bullpen 31.**

2 Q There was an e-mail that you drafted
3 that was referenced earlier. I'm not sure if
4 you have all the exhibits.

5 **A Yes, I remember it.**

6 Q There was -- 34/5 was referenced; do
7 you recall that?

8 **A And 31.**

9 Q And 31?

10 **A Yes.**

11 Q And you said that that -- 31, there
12 was also clear floor space for the toilet in
13 that area; is that right?

14 **A Clear path and clear floor space to**
15 **get to and use the facilities.**

16 Q Was that clear path to allow a
17 wheelchair to the front or the side, if you
18 recall?

19 **A I believe it was all around --**

20 Q Okay.

21 **A -- the clear floor space for the**
22 **toilet area.**

23 Q You were also asked questions about
24 toilets or grab bars in the bullpens behind

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Room 101; is that right?

A Yes.

Q And whether or not the toilets were 17 to 19 inches high; is that correct?

A Yes.

Q Do you know whether or not the toilets in any of those bullpens had floor space to allow a wheelchair to either approach on the side or in the front?

A I don't recall.

Q If an individual in a wheelchair who did not need to mount the toilet to use it needed to access the toilet either in Bullpen 31 or in the bullpens behind Room 101, would they be considered useable or accessible to that detainee?

A If the detainee -- I missed the part about the detainee.

Q Did not need to mount the toilet in order to --

A If they did not need to transfer, if there's clear floor space to any toilet, then that toilet would be accessible to him if they did not need to transfer.

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Q So if a detainee used a straight catheter and could sit in their chair, insert the catheter and make use of the catheter to urinate, would that toilet be accessible?

A If there was clear floor space, yes. It accommodates -- They made accommodation and have access to the program.

Q To the best of your knowledge, is the Leighton Courthouse required to have elements that meet the ADA standards either from 1991 or 2010?

A Leighton Courthouse was built in the late 1920s and did not have any standards to meet at the time. So it is an existing facility; and you would have to meet the standards of either the '92 or the 2010 when you make any changes, alterations or renovations in that particular space.

Q Well, you were asked several questions about the ramp at Leighton and the slope; do you recall those?

A Yes.

Q That ramp and the slope -- that ramp itself was not contemplated when the -- The ADA

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was not contemplated when the building was built; is that fair to say?

A Correct.

Q The Rehabilitation Act was not contemplated when the building was built; is that fair to say?

A Yes.

Q With respect to those ramps, do you know whether or not any detainees were denied access to any programs and/or services of either the Sheriff or Cook County as a result of those ramps?

A I'm not aware of any.

Q You were asked a question about whether or not disabled individuals are entitled to opportunity -- I'm sorry. You gave an answer concerning that disabled individuals are entitled to opportunities to programs, services and activities of a public entity; do you recall that line of questioning?

A Yes.

Q Does that include changes to policies and procedures in order to provide access?

A Yes. You can modify policies and

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procedures without substantially altering the essence of the program to make accommodations.

Q So it doesn't always require physical alteration or even technical improvement in order to provide accommodations?

A Yes. Title II for public entities, even though elements might be readily achievable or altering might be readily achievable does not have to if they can accommodate through alterations of their program services or activities.

Q We had some discussion about the RTU. Do you know when the RTU opened in 2014, opened to individuals assigned to wheelchairs at the Cook County Jail?

A I believe it opened in August of 2014.

Q And the RTU has the elements required to provide accessibility to toilet, sinks, showers; is that right?

A Yes, it meets the standards.

Q And these elements are present throughout the building?

A Yes.

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Q And these standards would have been to the 2010 standards for the ADA?

A Yes, 2010 design standards.

Q Would providing adult diapers be an accomodation for a person who suffers from urinary and bladder incontinence?

A I would assume so.

Q What about bowel incontinence?

A I would assume so.

Q You were asked some questions about whether or not nurses assisted detainees with showering at Cermak; do you recall those questions?

A Yes.

Q To the best of your knowledge, even if nurses do not assist detainees in showering, are detainees afforded an opportunity to shower?

A Yes.

Q Do you know how they are provided that opportunity?

A In the dorms, there are gang showers and the gang showers were altered with -- or they added a low head, a 48-inch head so that

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they can take showers.

Q And in the RTU, are Floors 2, 3 and 4 mirrors of each other in terms of design?

A Yes. 3 and 4 are, 2 is partially.

Q And do you know whether or not the second floor is designated for women or female detainees?

A I do not know the designations.

MR. CUMMINGS: I have no other questions.

C R O S S - E X A M I N A T I O N

BY MS. CARROLL:

Q You are a licensed architect in other states?

A Yes.

Q Which states?

A North Carolina, Iowa and Wisconsin.

Q ADA -- I'm sorry. My voice is almost gone -- but ADA renovations were completed in 2013 for the Cermak infirmary; is that correct?

A Yes.

Q Let's see. We had talked earlier about being -- a detainee being able to do either a circle or a T-shape regarding the

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clear floor space?

A For mobility, yes.

Q For mobility. It's an "or," not an "and," a circle and a T-shape. It's a circle or T-shape, correct?

A You can use either one.

Q Okay. And in terms of -- I'm trying to remember where this was, but you had talked about grab bars had been placed in I think it was Bullpen 34/5, but you had wanted it moved. Was it moved about an inch or what?

A They were moved about three inches, I believe.

Q Okay.

A They were raised.

Q They were raised. Were there any other elements added or changed in the tunnel/bullpen area of Leighton Division 5, the old female lockup?

A Can you repeat that, please?

Q Are there -- Can you say it because I can't?

BY MR. CUMMINGS:

Q Were there any other elements added

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or changed in the bullpen or tunnel area between Leighton and Division 5? And I'm specifically trying to reference the juvenile or old female lockup.

A Yes.

Q What were those elements that were added or altered?

MR. MORRISSEY: Objection, as far as the time period.

MR. CUMMINGS: Well, I will get to that.

MR. MORRISSEY: Well, what time period are we talking about?

MR. CUMMINGS: If he can answer the question, I will ask him when that was done, but it's something that's already been done, so.

BY THE WITNESS:

A Yes, there were alterations made. It was adding grab bars and the removal of a wall that presented a side transfer barrier.

Q And when was that done?

A That was in the fall of 2014.

MR. CUMMINGS: I have nothing else.

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MS. CARROLL: Thank you.

R E D I R E C T E X A M I N A T I O N
BY MR. MORRISSEY:

Q The renovation of the old female lockup toilet, did that fully comply with the 2010 element-by-element requirements?

A The element by element absolutely.

Q So there was enough clear floor space?

A Yes.

Q And wasn't that done in -- and actually, wasn't additional work done in the winter or spring of 2015 to that female holding cell -- Strike that.

Wasn't that work actually done in January or March 2015, the removal of the wall and grab bars?

A No, it was done prior to January because the Lacy trial started in January, and that was an issue at the Lacy trial.

Q Did it start in December of 2014?

A I don't recall the exact date that it started.

Q Was it after October 2014?

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A I believe so.

Q So did you change out the combination toilet, sink in the bullpen that was in the old female receiving area of the bridge?

A No.

Q So the lavatory was still inaccessible for a wheelchair-bound detainee?

MS. CARROLL: Objection to the form of the question, misstates his testimony.
BY MR. MORRISSEY:

Q By lavatory I mean sink.

A It was an existing element and you can make modifications to assist and improve accessibility by an element at a time.

So if you're trying to say that it's a violation of the ADA, that is not correct.

Q Well, just for clarification, those alterations or changes were made after October of 2014 to your belief?

A I believe so.

Q Going back to Bullpen 34/5 for a moment, in August or September of 2014, did able-body prisoners who were attending court at Leighton have access to toilets?

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A Yes.

Q And access to a courtroom or court holding cell toilet, is that part of the programs and services provided by either the Sheriff or the County?

MR. CUMMINGS: Objection, outside the scope of this witness' knowledge; but if you know, you can answer.

BY THE WITNESS:

A There are toilets in the holding cells on the floors behind the courts.

BY MR. MORRISSEY:

Q And that's a program or services provided by the County?

A Yes.

Q Did the wheelchair-bound detainees, did they have entitlement in August and September to use toilet facilities when attending court?

A What do you mean "entitlement"?

Q Well, let me rephrase that. Under the ADA, is one of the programs or services provided by the County you said was a toilet for prisoners going to court, correct?

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MR. CUMMINGS: Objection, misstates the testimony.

BY THE WITNESS:

A I'm sorry. Can you repeat it?

BY MR. MORRISSEY:

Q Sure. You stated that for prisoners attending court at Leighton, one of the programs or services provided to them were toilets in the holding cells behind the courtrooms?

A Yes.

Q Under the ADA, wheelchair-bound detainees are considered disabled, correct, may be considered disabled?

A Yes.

Q Your memo to -- October 2nd, 2014 laid out certain alterations to Bullpen 34/5, correct?

A It laid out the elements that Facilities Management was going to alter.

Q What reasonable accommodations for toileting in August and September of 2014 was provided to wheelchair-bound detainees waiting to go to court in the Leighton building?

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A I don't know all of them, but I know that there were -- that they were taken to facilities that they could use or they could be provided a commode chair that would assist them in using facilities.

Q How do you personally know in August or September of 2014 when wheelchair-bound detainees were brought down to Division 5, the receiving area, there were reasonable accommodations made for them to use a toilet?

A Because I asked the sergeant in charge of that area what the procedures were and what the accommodations were.

Q And what is the name of the sergeant?

A I don't recall.

Q When did you have the conversation with the person?

A When I visited Bullpen 34/5.

MS. CARROLL: All this was covered in Lacy several times, Tom.
BY MR. MORRISSEY:

Q Did you ever see a member of the Sheriff's Office bring a wheelchair-bound detainee to a toilet in August or September of

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2013 -- 2014?

A I occasionally saw wheel-bound detainees -- wheelchair-bound detainees in those areas and didn't -- I was there for other reasons, but they were generally pretty stationary at the time and weren't moving because they were in the process of being transferred.

Q Where were they located?

A I saw some around Bullpen 34/5. I saw some on the bridge, and I saw some in transport.

Q What do you mean by around Bullpen 34/5?

MS. CARROLL: Again, we have discussed this so many times in Lacy, I don't know why you are asking these questions again.

MR. MORRISSEY: Because Wade --
BY MR. MORRISSEY:

Q Just go ahead. You can answer.

MR. CUMMINGS: I don't think there was any contention that Wade was not put in a bullpen, but you can go ahead and ask him

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if he knows.

BY THE WITNESS:

A Question again.

MR. MORRISSEY: Repeat the question, please.

(WHEREUPON, the record was read as requested.)

BY THE WITNESS:

A They were sitting in a chair either just outside or adjacent to.

BY MR. MORRISSEY:

Q Did you see wheelchair-bound detainees in August and September in the hallway outside of Bullpen 34/5?

A I can't tell you the exact timeframe.

Q Mr. Cummings asked you about providing diapers to wheelchair-bound detainees, correct?

A Uh-huh.

Q Assuming a wheelchair-bound detainee could use the toilet to defecate and there was no toilet provided for them when they attended court in Leighton, in your opinion, as the ADA coordinator for the County, is providing

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diapers for that wheelchair-bound detainee a reasonable accommodation by the Sheriff?

MR. CUMMINGS: Objection.

MS. CARROLL: Incomplete hypothetical, completely misstates testimony.

MR. CUMMINGS: And misstates the question that I asked. I asked of someone who had bowel incontinence specifically.

BY THE WITNESS:

A He asked about incontinence and a diaper would be reasonable for incontinence.

BY MR. MORRISSEY:

Q My question is the providing of diapers for a wheelchair-bound detainee waiting to go to Leighton, is that considered a reasonable accommodation?

A I didn't say that and I didn't state it, and I wasn't even remotely close to that premiss.

Q So a wheelchair-bound detainee in August and September while awaiting for a court appearance should have been provided assistance from the Sheriff in using the bathroom?

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MR. CUMMINGS: Objection to the form of the question.

MS. CARROLL: Objection.
BY THE WITNESS:

A The ADA requires the opportunity so -- and how that accomodation is handled is up to the covered agency.

BY MR. MORRISSEY:

Q Do you know -- Do you have personal knowledge whether or not the Sheriff in August or September of 2014 provided any assistance for wheelchair-bound detainees attending court?

MR. CUMMINGS: Objection to the form of the question.

MS. CARROLL: Vague.

BY THE WITNESS:

A The knowledge that I have is through the conversation I had with the sergeant in charge of the area.

BY MR. MORRISSEY:

Q And did he tell you?

A He told me that they take them to the toilet or wheel them to an appropriate toilet where they can have accommodations to use them.

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Q In September of 2014 in the lower level of Division 5 at the RCDC, were there bathrooms that were ADA accessible?

MR. CUMMINGS: Objection to the form of the question.

BY THE WITNESS:

A Again, you're using the term ADA accessible.

BY MR. MORRISSEY:

Q Let me rephrase it. In September of 2014, in September, were there holding cells with bathrooms that had elements for ADA accessibility?

A They had some elements.

Q And which bullpens are you referring to?

A 34/5.

Q Any other?

A And did you give a timeframe with that?

Q September of 2014.

A The grab bars were there, I believe, at that time.

Q Were they the right height as

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required under --

A Again, I have been through this, no.

MR. CUMMINGS: Objection, asked and answered.

BY MR. MORRISSEY:

Q They were not?

A No, I told you that, but they were useable.

MR. CUMMINGS: Let the record reflect that Patrick thinks something is hilarious.

MR. MORRISSEY: We will take a break for one minute.

(WHEREUPON, a short break was had.)

BY MR. MORRISSEY:

Q Mr. Gumm, you mentioned in regards to Bullpen 34/5 in September of 2014 from your conversation with the sergeant that there was a commode chair in the vicinity?

A There were -- I believe there was a commode chair. In fact, I saw a commode chair in the staging area to the bridge that was wheeled down with the detainee if they went to Bullpen 34/5.

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Q Was it a -- Did it have wheels?

A Yes, it did.

Q Did it have any warnings on it on the commode chair?

A We have been through this on Lacy.

MS. CARROLL: Oh, my God, this is beyond the scope of any type of redirect. It's absolutely -- has nothing to do with this case. It has to do with Lacy. He's testified to this how many times in Lacy, three times? We're just wasting time right now. You could answer.

BY THE WITNESS:

A There are labels on the commode chair.

BY MR. MORRISSEY:

Q And was there a warning saying not to use without assistance?

A There is a sticker that says not to, but I did call the manufacturer and discuss that fact with them.

Q So the sticker, again, said don't use without assistance, correct?

A That's the wording that's on it, yes.

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Q Do you know whether there was nursing staff in the lower level of the RCDC for wheelchair detainees going to and from court?

A I don't know.

Q Do you know if the sergeants provided any assistance in using the commode chair?

A I don't know.

MR. MORRISSEY: I have nothing further.

MS. CARROLL: Hold on one second.

R E C R O S S - E X A M I N A T I O N

BY MS. CARROLL:

Q Did you talk to the manufacturer about the commode chair?

A Yes, I did.

Q What did the manufacturer say to you?

A I asked him the purpose of the sticker, and they said that it was to tell the user that they needed to have assistance; and I asked if it was required, and they said that if the person had the ability to transfer on their own that they could do that and that would be fine. And I said is the assistance required and they said, no, it is not, that it is

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basically a liability, what I would call a CYA of liability.

FURTHER REDIRECT EXAMINATION

BY MR. MORRISSEY:

Q What was the name of that representative from the manufacturer?

A I don't remember her name.

Q What date did you have that conversation?

A The exact date?

Q Yes.

A I don't recall the --

Q Did you note -- make any notes from that conversation?

A I did at the time, yes.

Q Was the Lacy case filed at that point?

A Yes.

Q Where did you keep your notes?

A In my office.

Q Do you know if that commode chair whether the arms came down or not?

A They were fixed for security reasons.

Q Who did you inform about the

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conversation?

A My attorneys and -- yeah.

MR. MORRISSEY: I have nothing further.

MS. CARROLL: We'll reserve -- I mean, we'll waive.

FURTHER DEPONENT SAITH NOT....

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STATE OF ILLINOIS)
) ss:
COUNTY OF C O O K)

I, Peggy A. Anderson, a Certified Shorthand Reporter in the State of Illinois do hereby certify:

That previous to the commencement of the examination of the witness, the witness was duly sworn to testify the whole truth concerning the matters herein;

That the foregoing deposition transcript was reported stenographically by me, was thereafter reduced to typewriting under my personal direction, and constitutes a true record of the testimony given and the proceedings had;

That the said deposition was taken before me at the time and place specified;

That the said deposition was adjourned as stated herein;

That I am not a relative or employee or attorney or counsel, nor a relative or employee of such attorney or counsel for any of the parties hereto, nor interested directly or indirectly in the outcome of this action.

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IN WITNESS WHEREOF, I do hereunto set
my hand at Chicago, Illinois, this 20th day of
May, 2016.

Peggy A. Anderson
Certified Shorthand Reporter
License No. 084-003813

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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

Donnell Flora,)	
)	
Plaintiff,	)	15 C 1127
)	
vs.	)	Honorable Judge
	)	Matthew F. Kennelly
Thomas Dart, Sheriff of Cook County, and)	
Cook County,)	
)	
Defendants.)	

DEFENDANT COOK COUNTY’S RULE 26(a)(2)(C) DISCLOSURES

Defendant Cook County, by and through its attorney, Anita Alvarez, State’s Attorney of Cook County, through her assistant, David R. Condron, respectfully submits the following initial disclosures pursuant to FRCP 26(a)(2)(C).

A. Non-Retained Experts Who Will Provide Fact and Opinion Testimony

- 1. Michael Gumm:** Gumm is the ADA Compliance Officer in the Cook County Office of Capital Planning and Policy. As ADA Compliance Director, Gumm’s responsibilities include: identifying and directing projects that will improve accessibility to Cook County facilities; reviewing policies and procedures, and helping and advising in improving those policies and procedures toward accessibility

Gumm is familiar with the layout of Cermak Health Services, including the rooms in which Plaintiff was housed. Gumm will opine that Cermak, which was built in 1998 and was constructed in accordance with the 1991 ADA Standards, satisfies those standards. Gumm will also opine that the manner in which Cook County chose to accommodate Plaintiff’s disability, namely providing a toilet chair in his room and a handicapped accessible shower chair in the communal shower and providing the services

of the nursing staff to assist Plaintiff with his bathing and use of the toilet was a reasonable accommodation or an appropriate manner to overcome any physical barriers to the toilets or showers. The nursing staff at Cermak was available on a 24/7 basis.

Gumm is also familiar with the layout of the Residential Treatment Unit (The RTU, Division 8 of the Cook County Department of Corrections) including the rooms and locations in which Plaintiff was housed. Gumm will opine that the RTU, which was built in 2013 and was constructed in accordance with the 2010 ADA Standards, satisfies those standards. Gumm will also opine that the layout and the manner in which Cook County chose to accommodate Plaintiff's disability, namely providing access to a handicapped accessible toilet and a handicapped accessible shower in addition to handicapped accessible programs and services were appropriate under the 2010 ADA standards at all locations where Plaintiff was housed in the RTU. Gumm will further opine that Plaintiff was also provided reasonable accommodations from the nursing staff that was available on a 24/7 basis at RTU for any additional assistance or access to accessible toilets, showers and programs and services. Mr. Gumm will further opine that rails are not required for beds in the RTU pursuant to the 2010 ADA standards.

Gumm is also familiar with the layout of the George Leighton Courthouse located at 2650 South California as well as the Jail facilities that lead to the Courthouse. The Leighton Courthouse was built before any ADA standards were in effect. Pretrial detainees use ramps to navigate to and from Court. Gumm will opine that Plaintiff was provided a reasonable accommodation because at all relevant times, procedures were in place at the Leighton Courthouse for Sheriff's Deputies to push Plaintiff up and down the ramps if needed. In addition, Gumm is familiar with the layout of the holding cells in the

basement of the Leighton Courthouse, including “bullpen 34/5.” Gumm will opine that all relevant times, a portable commode chair was supplied for detainee use, including Plaintiff, to overcome the physical toilet barriers in the holding cells in the basement and was a reasonable accommodation. Additionally Gumm is familiar with the renovations that were complete to the toilet facilities in “Bullpen 34/5” were completed on or about March 24, 2015. Gumm will opine that these renovations to the toilet were appropriate under the 2010 ADA standards.

Respectfully Submitted,
ANITA ALVAREZ
State’s Attorney of Cook County
By: /s/ David R. Condon
David R. Condon (ARDC #6210034)
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CERTIFICATE OF SERVICE

I, David R. Condrón, Assistant State's Attorney, hereby certify that I served copies of Defendant County of Cook's Rule 26a1 disclosure via regular mail deposited in the US Mail postage prepaid at 69 West Washington Street, Chicago Illinois 60602 before 5 p.m. on August 15, 2016 to the parties listed below.

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By: /s/ David R. Condrón
David R. Condrón

Transcript of the Testimony of
SABRINA RIVERO-CANCHOLA

Date: June 29, 2016

Case: HAROLD VAUGHN VS. THOMAS DART, ET AL.

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IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

HAROLD VAUGHN,)
)
Plaintiff,)
)
vs.) No. 15-cv-951
)
THOMAS DART, SHERIFF OF)
COOK COUNTY, and COOK)
COUNTY, ILLINOIS,)
)
Defendants.)

DONNELL FLORA,)
Plaintiff,)
vs.)
THOMAS DART, SHERIFF OF) No. 15-cv-1127
COOK COUNTY, and COOK)
COUNTY, ILLINOIS,)
Defendants.)

The deposition of SABRINA RIVERO-CANCHOLA,
called for examination pursuant to the Rules of
Civil Procedure for the United States District
Courts pertaining to the taking of depositions,
taken before EMILY TOMALA, CSR, a notary public
within and for the County of Cook and State of
Illinois, at 10150 South Western Avenue,
Chicago, Illinois, on the 29th day of June,
2016, at the hour of 2:00 o'clock p.m.

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1 I N D E X
2 WITNESS EXAMINATION
3 SABRINA RIVERO-CANCHOLA
4 By Mr. Morrissey: 4-198
5
6
7
8
9
10
11 E X H I B I T S
12 NUMBER MARKED FOR ID
13 Plaintiff's Exhibit Nos. 1-13 4
14 Defendant's Exhibit Nos. 1 and 2 38
15
16
17
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24

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(Whereupon, the witness was duly sworn.)

(Whereupon, Plaintiff's Exhibit Nos. 1-13 were marked for identification.)

MR. MORRISSEY: This is a Rule 30(b)(6) notice -- revised notice of deposition being taken in Donnell Flora vs. Thomas Dart and also in Harold Vaughn vs. Thomas Dart.

SABRINA RIVERO-CANCHOLA, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. MORRISSEY:

Q. Will you please state your name for the record, please?

A. My name is Sabrina Rivero-Canchola.

Q. I'm going to show you what's been marked as Plaintiff's Exhibit No. 1. It's the revised notice of deposition in the Flora case and ask you, have you seen that notice?

A. I have.

Q. Are you being produced by the Sheriff of Cook County to respond to items 1 and 2 and

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4(g) on that notice?

A. I am.

Q. What have you done in preparation for sitting for this deposition in regards to Mr. Flora as the sheriff's 30(b)(6) designee?

A. I have reviewed policies and procedures. I have reviewed Mr. Flora's bedding assignments and alerts, and I have inspected various cells within the Department of Corrections.

Q. What policies and procedures did you look at?

A. The sheriff's office policy with regard to disabled detainees.

Q. And what number is that?

A. It's the 11.14, I think.

Q. Did you also look at -- 4(g) asked for general order 24.15.8. Did you look at that general order also?

A. I did.

Q. When did you conduct your inspection of the cells that Mr. Flora was assigned to?

A. It was during our RTU audits last week I believe it was and a few weeks ago as well.

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Q. Do you know whether or not the cells were in the same condition as they were when Mr. Flora was a detainee at the Cook County Department of Corrections?

A. Which cells?

Q. Let me rephrase the question. At the time of your recent inspection of the RTU in Cermak in regards to Mr. Flora's housing assignments, do you know whether or not any of those cells have been altered since Mr. Flora vacated those cells or dormitories?

MR. NICHOLS: I'm not going to object.

I would just ask that for clarity, if you do have an exhibit of Mr. Flora's housing record, it may be a little bit easier for her to answer the question. No objection but --

MR. MORRISSEY: We'll get there.

BY MR. MORRISSEY:

Q. Do you understand the question?

A. I understand the question. I do not believe they have been altered.

Q. Now, in addition, you're being called to testify in regards to Harold Vaughn's

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30(b)(6) notice, correct?

A. Correct.

Q. I'm going to show you what's been marked as Plaintiff's Exhibit No. 2. It's the notice -- revised notice for Mr. Vaughn, and you're being called in regards to that notice to respond to 1, 2, 4(g), and items 5(a) through (e), correct?

A. Correct.

Q. What have you done prior to this day -- prior to today, what have you done to prepare to represent the office of the sheriff in response to this 30(b)(6) notice of dep for Mr. Vaughn?

A. I reviewed policies and procedures along with Mr. Vaughn's bed assignments, alerts, and I conducted an inspection of the cells.

Q. Again, the policies and procedures are from sheriff's order 11, correct, and also the general order 24?

A. Correct.

Q. Now, you mentioned you looked at housing assignments for Mr. Flora. And for purposes of this deposition, we're going to be asking questions about both notices. You

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understand that?

A. I understand.

Q. Showing you what has been marked as Plaintiff's Exhibit No. 6, it's the historical bed assignments, I believe, for Donnell Flora. I'll ask you to take a look at that document. In preparation for Mr. Flora's 30(b)(6) notice, did you inspect the cells that are listed on Exhibit 6?

A. Yes.

Q. In regards to Mr. Vaughn, I'm going to show you what I have marked as 7-A and 7-B which are identified as bed assignments, associated views for Harold Vaughn. I'll ask you whether or not those are the cells or dormitories you looked at for Mr. Vaughn in preparation for this deposition?

A. With the exception of the hospital assignment, yes.

Q. You mentioned that you have looked at general order 24.14.8.0 which has been marked by the plaintiffs as Plaintiff's Exhibit No. 3. I'm going to show you the document. Is this one of the documents you looked at in preparation

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for today's deposition?

A. Yes.

Q. Now, I believe your current position at the Cook County Jail for the sheriff is you're an ADA compliance officer?

A. Correct.

Q. I'll ask you to look at under Roman numeral 8, 4, which is on page 4 of that document. Do you see that document?

A. I do.

Q. Now, when a prisoner enters the jail, are you notified as the ADA compliance officer?

A. Am I notified?

Q. Yes.

A. Can you clarify what you mean by notified?

Q. Sure. If we look at Roman numeral 8, 4, it says: Once notified that a subject may be disabled, the RCDC supervisor shall, B, notify the ADA compliance officer via email at ccso.ada@cookcountyil.gov. Is that the practice and procedure of the sheriff's office to have the RCDC supervisor notify you when a disabled inmate enters the jail?

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MR. NICHOLS: I object to this question as it's beyond the scope of the designation of Ms. Rivero-Canchola in this particular case. Tom, if you could point to me in the notice, then I'll withdraw the objection, but there's nothing in your notice that indicates that you want to be questioning --

MR. MORRISSEY: If we look at --

MR. NICHOLS: -- about this particular --

MR. MORRISSEY: Sure. We've gone through this. On both Flora and Vaughn's revised notice of deposition, it states under 4(g), compliance with general order 24.15.8.8 adopted in August of 2014 including, but not limited to the requirement to maintain a list of cells or living units that can appropriately accommodate individuals with qualified disabilities. So it was asked --

MR. NICHOLS: No, the notice refers to a completely different general order. You're talking about the nondiscrimination policy.

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MR. MORRISSEY: No, this is the general order 24. Isn't this the general order or am I off?

MR. NICHOLS: I think you're off.

MR. MORRISSEY: I'm off?

MR. NICHOLS: I'm going to object to this question. I'm going to instruct my client not to answer questions about --

MR. MORRISSEY: Judge Ellis made it quite clear that if during the 30(b)(6) notice that the individual deponent's knowledge overlaps with the designation, that she may be examined about those issues.

MR. NICHOLS: I'm just going by the notice that was prepared by you. There's nothing in your notice about this particular --

MR. MORRISSEY: Judge Ellis --

MR. NICHOLS: What I understand what Judge Ellis said, and I'm not trying to flout, but I'm looking at your notice, and your notice has nothing about this particular policy. Moreover, Ms. Rivero-Canchola was not produced for the

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purpose of responding to questions about that particular policy. If you want to serve us with a revised notice, that's fine.

MR. MORRISSEY: You're not going to allow her to answer any of these questions?

MR. NICHOLS: Not today because that's not what she's designated for, and it's not in your notice.

MR. MORRISSEY: Judge Ellis indicated that we should be allowed to ask questions if her individual knowledge overlaps with what she's been designated --

MR. NICHOLS: I'm going to instruct my client not to respond to questions about this particular policy. You haven't been able to point to me anywhere in your notice of deposition where you even refer to this policy.

MR. MORRISSEY: I respectfully disagree because I think on the record, Judge Ellis made it clear that if the person -- if the deponent has personal knowledge, that we should be allowed to ask questions about it. And obviously she does. She's indicated

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that she's the ADA compliance officer.

MR. NICHOLS: I'm maintaining my objection. I'm instructing my client not to answer questions about that particular policy.

MR. MORRISSEY: We're going to certify it, and when we bring her back and we bring it before Judge Ellis, we're going to be requesting fees and costs for the time that we're spending --

MS. CARROLL: Tom, you deposed her for 3 hours just 2 weeks ago. You haven't thought to ask these questions then when you could have.

MR. MORRISSEY: That was not in this case.

MR. NICHOLS: There's nothing in the notice, Tom.

MR. MORRISSEY: We're certifying --

MS. CARROLL: You're suing her and trying to bring her in in I don't know how many cases for depositions and wasting her time. So right now, if you want to certify it, certify it.

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MR. MORRISSEY: Let's go off the record.

(Whereupon, a discussion was had off the record.)

MR. MORRISSEY: Given that she testified that she reviewed this general order in preparation for this deposition, we believe we're entitled to ask the questions.

MR. NICHOLS: Ask away. I'm instructing my client not to answer any questions about this order. It's beyond the scope of the notice. It's beyond the scope of what she was designated to respond to.

BY MR. MORRISSEY:

Q. Are you familiar with the 2010 design standards under the ADA?

A. Yes.

Q. Are you familiar with the time when Cermak Health Services was constructed?

A. Yes.

MS. CARROLL: Objection to the form of the question, Cermak Health Services.

MR. MORRISSEY: Let me rephrase the question.

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BY MR. MORRISSEY:

Q. Are you familiar with the fact that Cermak -- the Cermak infirmary was built on or about the year 1998?

A. On or about, yes.

Q. And that was after the passage of the ADA, correct?

A. After the passage of the 1990 ADA?

Q. Right.

A. Yes.

Q. And when the Cermak infirmary building was built after 1997, it was subject to the 1991 ADA standards for design, correct?

MR. NICHOLS: Objection to the extent that the question calls for a legal conclusion, but you can answer.

MR. MORRISSEY: She's being produced by the sheriff to respond to these questions.

MR. NICHOLS: I maintain my objection, but you can answer the question.

THE WITNESS: What was the question?

MR. MORRISSEY: Can you repeat the question.

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(Whereupon, the record was read
as requested.)

BY THE WITNESS:

A. I don't know, Mr. Morrissey. I believe that's a legal argument that you need to make.

BY MR. MORRISSEY:

Q. I'm going to ask you to answer the question because you're being produced by the sheriff to testify to certain cells within Cermak. So to your understanding, were there ADA standards for accessibility designs that were promulgated after the passage of the ADA?

A. Could you rephrase the question?

Q. You don't understand the question?

A. I asked you to rephrase the question.

Q. What don't you understand about the question?

A. I asked you to rephrase the question.

Q. I'm asking, what don't you understand about the question?

A. Would you like to repeat it? We can try that.

MR. MORRISSEY: You can repeat it.

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(Whereupon, the record was read
as requested.)

BY THE WITNESS:

A. To my understanding, yes.

BY MR. MORRISSEY:

Q. I'm showing you what has been marked as Plaintiff's Exhibit No. 4. It's entitled the Department of Justice ADA Standards For Accessibility Designs and ask you if you have seen this before or are aware that there are ADA standards for accessibility under the 1991 standards?

A. I believe there are, yes.

Q. I would ask you to turn -- let me ask you before we get to the actual document, these are the 1991 standards, correct, as the document on Exhibit 4 states, correct?

A. As this document states, yes.

Q. And you're aware that under the 1991 standards for accessible design, there were certain requirements for the height of a toilet seat to comply?

A. With regards to correctional facilities? I don't believe there were.

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Q. No, in regards to -- does the Sheriff of Cook County -- is it the opinion of the Sheriff of Cook County that the 1991 design -- let me rephrase that. As the sheriff's representative, is it the position that the 1991 ADA standards for accessible design do not apply to the Cook County Jail?

MR. NICHOLS: Objection to the form of the question to the extent that it's calling for a legal conclusion, and, also, Tom, this appears to be slightly beyond the scope of the designation. That being said, I'm going to give you some leeway to ask a little bit of questioning about the ADA standards, but the actual notice is just simply asking for the features that are inside of the cell, not for testimony about what Sheriff Dart thinks about the ADA standards.

MR. MORRISSEY: It's not the sheriff personally. It's the sheriff's office. And what the notice provides is, why are the cells in which Mr. Flora and Mr. Vaughn were placed in, why do they accommodate their disabilities and --

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MR. NICHOLS: That's not what the notice says. You're trying to imply a meaning into the notice, Tom, that's not there. The notice specifically asks, the physical features that are in the room. So there is some relevance to the ADA standards here, but what you're trying to ask is for -- it appears like you're asking for some sort of legal conclusion about applicability of the ADA, and that's not what Ms. Rivero-Canchola was designated to talk about.

MR. MORRISSEY: Can you repeat the question and have her answer the question.

(Whereupon, the record was read
as requested.)

MR. NICHOLS: Once again, I maintain my objection. Again, I'm going to allow the witness to answer this question, but I just don't see where in your notice it gives you any kind of authority to ask these particular questions of this witness in the context of this deposition. You can answer.

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BY THE WITNESS:

A. It is the sheriff's position -- the sheriff's office position that the 1991 standards do not specifically say anything about correctional facilities.

BY MR. MORRISSEY:

Q. And, therefore, the sheriff and the county when they built Cermak in 1997 or 1998 did not have to comply with these ADA standards for accessible design?

MR. NICHOLS: Objection to the form of the question. Cermak was not built by the sheriff. But you can answer the question.

BY THE WITNESS:

A. The sheriff will leave that legal argument to be made in court.

BY MR. MORRISSEY:

Q. I'm asking you as a sheriff's representative. When Cermak was constructed in 1997 or 1998 and the sheriff began housing inmates in Cermak, did the sheriff believe that the 1991 standards for accessible design applied to Cermak?

MR. NICHOLS: Objection to the form.

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Again, this calls for a legal conclusion. Also, it's overbroad as to time frame in this particular case. Both Flora and Vaughn were in the jail after 2012. But you can answer the question to the extent that you know the answer.

BY THE WITNESS:

A. I believe it's a legal conclusion that I'm not willing to make at this time.

BY MR. MORRISSEY:

Q. You can't object. It's not your position to object.

A. Then I don't know the answer, Mr. Morrissey.

Q. As the sheriff's representative, you don't know the answer?

A. Do I know the answer whether or not you're able to prove your case? No, I do not. I'll leave that to our legal counsel.

Q. You know, if you have a problem with the question, then I would ask your attorney to make the objection.

A. He did.

Q. And he allowed you to answer. So will

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you answer the question?

MR. NICHOLS: Mr. Morrissey, that was her answer.

BY MR. MORRISSEY:

Q. Looking at 4.16.3 of the 1991 standards, there are requirements under the 1991 standards for a water closet. Do you know what a water closet is?

A. I do.

Q. What is a water closet?

A. A water closet is a toilet/sink combination generally.

Q. Do you see under 4.16.3, there's a standard in regards to the height of the water closet shall be 17 inches to 19 inches measured to the top of the toilet seat; do you see that?

A. I see that.

Q. ***Do you know whether or not when Cermak was constructed, whether or not the toilets inside the housing units complied with that height standard?

MR. NICHOLS: Objection to the extent that the question is very overbroad as to time frame and to the extent that it calls

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for a legal conclusion and to the extent that it's beyond the scope of her designation. I'm instructing my client not to answer questions about the ADA standards and what they mean. If you want to ask questions about features in the cell as you indicated in your notice, feel free. I'm instructing my client not to answer the question.

MR. MORRISSEY: We'll certify it.

BY MR. MORRISSEY:

Q. Under water closet, is there -- under 4.16.4, is there a requirement for grab bars?

MR. NICHOLS: Same objection. I'm instructing my client not to answer questions about what the ADA regulations require, what they mean. It's not in the notice, Tom.

MR. MORRISSEY: I think you're drawing a much narrower reading of that than is logical, and we're going to ask her specifically in regards to each room that Mr. Vaughn and Mr. Flora were housed in whether or not these standards were met or

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not. Do you understand that?

MR. NICHOLS: I do.

MR. MORRISSEY: And you have no objection to that?

MR. NICHOLS: I think that's probably a better way to go is start talking about the rooms where they were housed and ask about the features in those rooms rather than getting the witness to comment on what these regulations mean.

MR. MORRISSEY: Don't you agree that the accommodations provided for disabled people at the jail depend in part in regards to the standards under the 1991 ADA act?

MR. NICHOLS: It's not my deposition, Tom. It's your case to prove.

MR. MORRISSEY: You're objecting to very fundamental questions, and you're delaying the deposition unnecessarily because these are very simple straightforward questions that apply to each and every housing unit that Vaughn and Flora were in.

MR. NICHOLS: All I can do is look at

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your notice and know what your notice wants to ask about. You're implying a broader meaning to the notice, Tom.

MS. CARROLL: You're trying to get legal conclusions here.

MR. MORRISSEY: We'll continue.

BY MR. MORRISSEY:

Q. Do the ADA requirements -- do the 1991 ADA standards for accessible design provide standards for lavatories to your knowledge?

MR. NICHOLS: Once again, I'm objecting to this question. Specifically you're seeking legal conclusions here. Your notice seems to be looking more for facts. And I'm going to instruct my client not to respond to this question.

BY MR. MORRISSEY:

Q. We'll go to Mr. Flora. If we look at Exhibit No. 6, we have Flora's housing history, correct?

A. His historical bed assignments, correct.

Q. Now, if we look at Exhibit 6, does it reflect that Mr. Flora between May 1, 2014, and

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August 4, 2014, he was staged or housed in 3243?

A. I don't know what you're looking at, Mr. Morrissey.

Q. Do you know where Mr. Flora was housed between May 1, 2014, and August 4, 2014?

A. I don't see the date August 4 on Exhibit 6.

Q. Do you see the date August 5, 2014?

A. I do.

Q. And between May 1 and August 5, 2014, he was in 3-North, correct?

A. Correct. That's what this says.

Q. Do you know what living unit he was in in 3-North between that period of time?

A. From memory, I don't. I would have to review my records.

Q. Isn't it true that he was in room 3243?

A. From memory, I don't recall.

Q. Do you know if 3243 during that period of time accommodated disabled individuals?

MR. NICHOLS: Objection to the extent that it calls for a legal conclusion, but you can answer the question.

MS. CARROLL: And form.

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MR. MORRISSEY: Let me rephrase the question.

BY MR. MORRISSEY:

Q. Prior to coming in here today, did you look to determine where Mr. Flora was housed between May of 2014 and August 4, 2014?

A. I did.

Q. Would anything refresh your memory as far as where Mr. Flora was housed during that period of time?

A. A full list of his bedding assignments and the tier logs would.

Q. Where did you look to find out that information?

A. At the records that we have.

Q. Where did you -- what records did you look at?

A. The tier logs and full bedding assignments. Mr. Morrissey, you're referring me to room 3243. That isn't on your exhibit.

Q. That's not my question. Is there anything you can look at that would refresh your memory that he was assigned to 3243?

A. Potentially, yes, our records.

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MR. MORRISSEY: We'll take a 5-minute break, and you can call your office and find out.

(Whereupon, a short break was taken.)

BY MR. MORRISSEY:

Q. Did you refresh your memory in regards to what housing cell Mr. Flora was placed in between May 1, 2014, and August 4, 2014?

A. We turned over those records to your office.

Q. My question is, did you refresh your memory?

A. I do not have those records with me today, but we did turn them over in this case. So you do know what rooms he was assigned to. So if you're willing to provide me with that document, I can tell you.

Q. Our notice provides as follows -- and I would ask you to respond to the questions, and don't argue with the person taking your deposition. Is that understood? The question number 1 which you're being called for by the sheriff, the physical features including but not

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limited to any fixed or immovable accommodations provided to assist disabled detainees at sinks, toilets, and showers of each housing assignment whether described as a room, cell, or otherwise to which plaintiff was assigned while detained at the Cook County Jail from April 30, 2014, to January 11, 2016.

Now, I'm asking you for the discrete period of time right now between May 1, 2014, and August 4, 2014. What accommodations were made to Mr. Flora as far as toileting during that period of time?

A. Just to clarify, that's a different question than you asked prior to the break, but the accommodations that were provided to Mr. Flora; is that the question?

Q. Do you want the question read back, ma'am?

A. I'm asking you to clarify your question.

MR. MORRISSEY: We'll read the question back.

(Whereupon, the record was read as requested.)

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BY THE WITNESS:

A. As far as toileting depending on the room that he was assigned to, he would either have a toilet chair or an accessible toilet.

BY MR. MORRISSEY:

Q. Looking back at Exhibit 6, does it reflect that he was on 3-North?

A. It does.

Q. During that period of time?

A. From May 1 to August 5, it does.

Q. What housing room on 3-North during that period of time was accessible?

MR. NICHOLS: Objection to the extent that the question is a bit overbroad, Tom. Would you mind rephrasing the question?

BY MR. MORRISSEY:

Q. I'll ask you another question. What made a toilet accessible in May of 2014?

MR. NICHOLS: Same objection. It's vague and overbroad. However, you can answer the question to the extent that you know what he's asking. These are your questions, Tom, not mine.

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BY THE WITNESS:

A. In May of 2014, grab bars of a certain height, a toilet seat of a certain height would make that toilet accessible as well as clear floor space around the toilet.

BY MR. MORRISSEY:

Q. In May of 2014 in order for a toilet to be accessible, did it require a rear wall grab bar?

MR. NICHOLS: Objection to the extent that the question is vague as to location. Are you talking about a specific cell? That would be helpful. Again, the notice refers to where Flora was housed. You're asking about any toilet, Tom, so narrow the question down to location.

MR. MORRISSEY: That's a mindless objection. It really is. She said depending whether he was in an accessible room or not; if he was in an inaccessible room, I believe she said they could have a portable toilet. If he wasn't in an accessible room, he would have a compliant toilet. So I'm asking her in order for --

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1 assuming he was in an accessible room on
2 3-North, what was the requirement for --
3 Strike that.

4 BY MR. MORRISSEY:

5 Q. Was there a requirement to have a grab
6 bar against the rear wall of the toilet?

7 MR. NICHOLS: I'm also going to add
8 another objection. You're seeking a legal
9 conclusion as well. You're basically
10 rephrasing these questions to seek legal
11 conclusions from this witness. Your notice
12 specifically asks for the features that were
13 in a cell. That's what your notice
14 requests. It's up to you to make sure that
15 your notice is specific enough to allow you
16 to ask the questions that you want to ask
17 now. So if you want to ask about what was
18 in the cells where Mr. Flora was housed,
19 that's well within your notice. This
20 question is in my opinion beyond the scope
21 of your notice.

22 MR. MORRISSEY: You can answer the
23 question.

24 THE WITNESS: What was the question?

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1 BY MR. MORRISSEY:

2 Q. In order for a toilet in a hospital
3 cell in the jail to be accessible in May of
4 2014, was there a requirement for there to be a
5 rear wall grab bar?

6 MR. NICHOLS: Same objection, calls for
7 a legal conclusion. It's also beyond the
8 scope of the notice. I will allow you to
9 answer this question to the extent that you
10 know offhand what the ADA requirements may
11 have been at that time.

12 BY THE WITNESS:

13 **A. I'm not sure there were any specific**
14 **requirements for hospital cells. Can you**
15 **clarify what you mean by that?**

16 BY MR. MORRISSEY:

17 Q. For a toilet in 2014 -- in May of 2014,
18 was there a requirement for a rear wall grab
19 bar?

20 MR. NICHOLS: Objection. The question
21 is vague as to location, and it's seeking a
22 legal conclusion, and it's beyond the scope
23 of your notice. I'm instructing my client
24 not to answer that question. If you want to

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1 ask about what were in the cells, go for it.
2 BY MR. MORRISSEY:

3 Q. What do you mean by an accessible
4 toilet in regards to grab bars?

5 **A. Grab bars of a certain height and**
6 **certain location.**

7 Q. Do the grab bars have to be to the rear
8 of the toilet in the sheriff's understanding of
9 accessible toilet?

10 MR. NICHOLS: Same objection. Again,
11 you're asking questions that are calling for
12 legal conclusions and are beyond the scope
13 of the notice. She wasn't designated to
14 respond to this. I'm instructing her not to
15 answer that question.

16 BY MR. MORRISSEY:

17 Q. Assuming Mr. Flora was in 3243 which
18 were requested in the admissions, did room 3243
19 have a rear grab bar in May of 2014?

20 **A. In May of 2014, I think it did.**

21 Q. Did the ADA 1991 design standards
22 require a certain length for that rear grab bar?

23 MR. NICHOLS: Same objection, calls for
24 a legal conclusion. It's beyond the scope

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1 of the notice. You can answer to the extent
2 that you know.

3 MR. MORRISSEY: Listen, Mr. Nichols,
4 I've had it. I think your objections are
5 meritless. We asked specifically in regards
6 to the rooms, whether they accommodated the
7 plaintiffs in this case. The rules were
8 specific in 1991 and thereafter for
9 construction of buildings after 1991. It's
10 perfectly permissible for me to ask these
11 questions, and I would ask you to stop
12 making these nonsensical objections. Do you
13 understand?

14 MR. NICHOLS: This is your notice, Tom.

15 MR. MORRISSEY: Do you understand?
16 These are questions that are germane to the
17 notice.

18 MR. NICHOLS: This is your notice.

19 MR. MORRISSEY: I understand. Will you
20 quit making objections that are pointless?

21 MR. NICHOLS: They're not pointless
22 objections.

23 MS. CARROLL: Then ask questions
24 pertaining to the notice.

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MR. NICHOLS: Ask questions pertaining to the notice, and you'll get answers. You asked her questions that were pertinent, and she answered it. But you're asking questions about whether or not these -- you're asking for legal conclusions, Tom, and the notice -- I don't see anywhere in the notice that allows you to ask these questions. Clearly we have a different understanding of what the notice allows you to ask, but my understanding --

MR. MORRISSEY: You had an opportunity in front of Judge Ellis and Judge Kinelly to clarify what the notice requested, and you didn't do that. We have continued these depositions for months on end, and I would ask you to quit delaying the deposition.

MR. NICHOLS: I'm actually at this point, I'm going to enter into the record an exhibit of a letter that I served upon you on May 6, 2016. And in this letter, both of these letters, and I want to mark this as Defendant's Exhibit 1 and 2 --

MR. MORRISSEY: This isn't your

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deposition.

MR. NICHOLS: I'm going to because you're telling me that my client did not object to these questions when on May 6, 2016, we provided letters to you that object to these very questions that you're asking. So to the extent that you're saying there's no objections, they're here in writing. So, yeah, I'm entering them into the record so that it's clear --

MR. MORRISSEY: Was that letter after the court granted our motion requiring you to go forth with this motion -- with these depositions?

MR. NICHOLS: Yes, it was.

MR. MORRISSEY: And you didn't raise it in front of Judge Kinelly before that.

MR. NICHOLS: I raised these objections in writing in a letter. We maintain these objections. They're overbroad. If you think we waived them, that's your argument to make. But I would like to introduce these 2 letters as exhibits into the record.

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(Whereupon, Defendant's Exhibit Nos. 1 and 2 were marked for identification.)

MR. MORRISSEY: Are you saying at this late stage of this litigation that Mr. Flora was not housed for this period of time in 3243?

MR. NICHOLS: This is not my deposition, Tom.

MR. MORRISSEY: Are you quibbling with whether or not Mr. Flora was in 3243?

MR. NICHOLS: This is not my deposition.

MR. MORRISSEY: I understand.

MR. NICHOLS: I'm not answering your question.

MR. MORRISSEY: Your client is apparently aware that Mr. Flora was in 3243.

MR. NICHOLS: This is not my deposition, Tom.

MR. MORRISSEY: We'll go to the next date, and we'll see if you're going to continue these pointless objections.

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BY MR. MORRISSEY:

Q. On August 6, 2014, was Donnell Flora placed in room 3123 on 3-South?

A. From this document, it appears he was.

Q. And how long did he remain, as a sheriff's representative, in 3123?

A. From this document, it appears 4 days approximately.

Q. Can you describe the toilet that was -- let me rephrase the question. When you examined in the last week or 2 room 3123 in 3-South, had it been altered since August of 2014 to your knowledge?

A. To my knowledge, no.

Q. Describe the toilet in room 3123.

A. It was a standard correctional sink/toilet combination.

Q. I'm showing you what has been marked as Plaintiff's Exhibit No. 5. It's an accessibility assessment done by Maureen Regan on November 25, 2014. I'll ask you to look at figure 3 on page 6 of 7 of Group Exhibit No. 5. Does figure 3 in Group Exhibit No. 5 represent the standard toilet/sink combination in Cermak?

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A. It does.

Q. And when you went into 3123 recently, did you find a toilet/sink combination similar to that?

A. Similar, yes.

Q. Now, also, in room 3123, was there a shower?

A. There was.

Q. And can you describe the shower that was in room 3123 when you examined it about a week ago?

A. It was a standard correctional shower for an isolation room.

Q. So 3123 was an isolation room, correct?

A. It was.

Q. And looking at Group Exhibit No. 5, figure 4, on page 6, does that fairly and accurately depict the type of shower that you found in room 3123 when you inspected it about a week ago?

A. I can't tell. It's a dark photo. I can't see anything inside the shower.

Q. Does the outside of it appear similar to what you inspected in room 3123, the shower

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in room 3123?

A. From the quality of the photo, the only thing I can see is the housing.

Q. Describe that for me, the shower in 3123.

A. It's a standard correctional shower for an isolation room.

Q. How wide was the door to the shower?

A. I don't know.

Q. Were there grab bars when you inspected the 3123 shower?

A. No.

Q. Was there a chair -- a fixed chair or bench in the shower in 3123?

A. A fixed chair or bench? Can you explain what you mean by a fixed chair?

Q. Was there any bench inside of the shower in 3123?

A. A bench?

Q. Yes.

A. No, there's no bench.

Q. Was there a fixed -- a permanent chair inside of 3123?

A. Can you clarify what you mean by

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permanent?

Q. Yes. Was there a chair that was attached? Did it become part of the shower itself, nonmovable?

A. Nonmovable, no.

Q. What was the height of the faucet in 3123 when you inspected it about a week ago?

A. I didn't measure the height of the faucet.

Q. As an ADA compliance officer, was it the appropriate height to be accessible for a wheelchairbound detainee?

MR. NICHOLS: Objection to the extent that it calls for a legal conclusion. You can answer.

BY THE WITNESS:

A. I didn't inspect the height of the shower.

BY MR. MORRISSEY:

Q. As the sheriff's representative, could a wheelchairbound detainee roll into the shower?

A. It's possible they could.

Q. What do you mean by possible?

A. It's possible. I didn't take

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measurements of the width of the shower, Mr. Morrissey.

Q. Based upon your understanding of either the -- Strike that.

Do you have an understanding of the 2010 design standards of the ADA?

A. Yes, I do.

Q. Showing you what's been marked as Plaintiff's Exhibit No. 15, it's marked as ADA Section 504 design guides. Are you familiar with those design guides put out by the United States Justice Department?

A. I am.

MR. NICHOLS: Let's take a quick break to let my client review this document.

MR. MORRISSEY: She said she was familiar with it. We can take a few moments.

(Whereupon, a short break was taken.)

BY MR. MORRISSEY:

Q. In room 2123 in August of 2014, what fixed features of the toilet accommodated a wheelchair-assisted prisoner?

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MR. NICHOLS: Objection to the form of the question to the extent that it calls for a legal conclusion.

MR. MORRISSEY: Mr. Nichols, with all deference to you, that's exactly what the notice provides for. So will you quit making these pointless objections?

MR. NICHOLS: They're not pointless. I'm going to allow her to answer the question, but I made my objection.

MR. MORRISSEY: Well, if you don't, we're going to call the judge. We're going to call Judge Kinelly. You can answer.

THE WITNESS: Can you repeat the question?

(Whereupon, the record was read as requested.)

BY THE WITNESS:

A. I don't understand what you mean by accommodated. That's an individual assessment. I don't know how to answer that without more information.

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BY MR. MORRISSEY:

Q. The toilet inside of 3123 in August of 2014, how did the design accommodate a person as far as using a wheelchair -- Strike that.

How did the design of the toilet in room 3123 in August of 2014 accommodate a detainee who was wheelchairbound?

MR. NICHOLS: Objection to the form of the question to the extent that it calls for a legal conclusion. I'm going to allow my client to answer the question.

BY THE WITNESS:

A. As I previously stated, I believe whether or not a person is accommodated is an individual assessment. If you're asking me if it matches the 504 design guide, then, no, 3123 did not match the 504 guide --

BY MR. MORRISSEY:

Q. Is it the sheriff's position that it's an individual determination by the sheriff whether or not the design of the toilet in 3123 in August of 2014 accommodated Mr. Flora's needs?

A. Can you repeat the question?

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(Whereupon, the record was read as requested.)

MR. NICHOLS: Objection to the form of the question, compound question, and objection to the extent that it calls for a legal conclusion. You can answer the question.

BY THE WITNESS:

A. I don't understand your question, Mr. Morrissey. Can you rephrase it?

BY MR. MORRISSEY:

Q. Sure. In August of 2014, is it the sheriff's position there were no fixed standards in regards to whether the toilet in 3123 could accommodate a wheelchairbound detainee?

MR. NICHOLS: Objection to the extent the question calls for a legal conclusion. You can answer the question.

BY THE WITNESS:

A. I don't understand your question.

BY MR. MORRISSEY:

Q. As the sheriff's representative, did the toilet in room 3123 have to meet any ADA standards in order to accommodate a prisoner

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such as Mr. Flora?

MR. NICHOLS: Objection to the extent the question calls for a legal conclusion. You can answer.

BY THE WITNESS:

A. It's the sheriff's position that we're required to provide reasonable accommodations.

BY MR. MORRISSEY:

Q. What reasonable accommodation -- you're aware that Mr. Flora is wheelchairbound, correct?

A. I am.

Q. And Mr. Flora is paralyzed, correct?

A. I believe so.

Q. What reasonable accommodation when Mr. Flora was in 3123 did the sheriff provide in regards to his toileting needs?

A. The sheriff's office provided a toilet chair to Mr. Flora.

Q. Did the toilet -- did the toilet that was a permanent fixture in 3123 provide a reasonable accommodation for Mr. Flora's toileting needs?

MR. NICHOLS: Objection to the extent

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that the question calls for a legal conclusion. You can answer the question.

BY THE WITNESS:

A. I don't understand your question.

BY MR. MORRISSEY:

Q. Sure. There was a toilet inside of 3123 in August of 2014, correct?

A. Correct.

Q. Did that toilet in the sheriff's view accommodate Mr. Flora's toileting needs?

MR. NICHOLS: Same objection. You can answer.

BY THE WITNESS:

A. The toilet with the toilet chair did accommodate his needs, yes.

BY MR. MORRISSEY:

Q. But my question was, did the toilet alone, was that -- was the toilet alone that was in 3123 at the time that Mr. Flora was housed there, did that accommodate -- provide an accommodation for Mr. Flora to use the toilet?

MR. NICHOLS: Same objection. You can answer.

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BY THE WITNESS:

A. Did the toilet provide an accommodation? I don't understand that question.

BY MR. MORRISSEY:

Q. Sure. Assuming that there was just the toilet in 3123 when Mr. Flora was housed there, did that toilet on its own provide a reasonable accommodation to Mr. Flora?

MR. NICHOLS: Same objection. You can answer the question.

BY THE WITNESS:

A. If I had to speculate since that wasn't the only accommodation provided, I would say I don't know. It wasn't the only accommodation provided.

BY MR. MORRISSEY:

Q. Do you have personal knowledge -- did the toilet in 3123 that was in that room in August of 2014 have grab bars?

A. It did not.

Q. Was the seat height between 17 and 19 inches?

A. I don't know.

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Q. Is the seat height currently between 17 and 19 inches in 3123 when you went in there in preparation for this deposition?

A. I didn't measure it.

Q. Now, in regards to -- so it's your position that -- does the sheriff have knowledge that there was actually a portable toilet chair in room 3123 during all times when Mr. Flora was housed there?

A. Can you repeat the question?

Q. Sure. During the time -- during the period between August 6, 2014, and August 10, 2014, was there always a portable toilet chair in room 3123?

A. There's always one available, yes.

Q. My question is, was there always a portable toilet chair inside room 3123 during the period of time Mr. Flora occupied it?

A. Was it always inside the room? I don't know, Mr. Morrissey.

Q. Does the sheriff know exactly what type of portable chair was available to Mr. Flora at times when he was housed in room 3123?

MR. NICHOLS: Tom, this is less of an

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objection, more of a clarification. When you use the term sheriff, I just want to make sure you're referring to the sheriff's office.

MR. MORRISSEY: Let me rephrase it.

BY MR. MORRISSEY:

Q. It's your testimony that there was -- there might have been a movable toilet chair for use by Mr. Flora in room -- when he was occupying 3123, correct?

A. That's not my testimony.

Q. Is it your testimony that there were portable toilet chairs on 3-South in August of 2014?

A. Yes, that's my testimony.

Q. What type of portable toilet chairs were on 3-South in August of 2014?

A. What brand? I don't know.

Q. Do you know what features that portable toilet chair had?

A. It was a toilet chair.

Q. Do you know whether or not it complied with any design standards promulgated by the ADA?

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MR. NICHOLS: Objection to the extent the question calls for a legal conclusion. You may answer.

BY THE WITNESS:

A. I don't believe the ADA promulgated any design standards for toilet chairs.

BY MR. MORRISSEY:

Q. Did you investigate to determine what type of portable toilet chairs were available on 3-South in August of 2014?

A. I believe they're the same ones that are available now.

Q. What do you base that representation on?

A. I don't believe we have changed the type of toilet chair.

Q. Do you know if the -- do you know what accommodations were provided in 3123 for Mr. Flora to take a shower between August 6, 2014, and August 10, 2014?

A. In room 3123?

Q. 3123.

A. There was a shower chair available.

Q. Do you know whether or not the shower

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chair -- do you know what type of shower chair was available on 3-South in August of 2014 for Mr. Flora to take a shower?

A. I don't know the brand, but I'm sure we can get you that information.

Q. The deposition requires you to be able to tell us in this deposition what features were available?

A. You didn't ask me about a feature. You asked me what kind.

Q. The question is, the physical features including but not limited to any fixed or immovable accommodations provided to assist disabled detainees at sinks, toilets, and showers. Tell me what physical features these shower chairs had in August of 2014 while Mr. Flora was in 3123.

A. The physical feature is the toilet chair. It's a toilet chair. I don't understand your question.

Q. Is it metal? Is it plastic?

A. I believe parts of it are metal. Parts of it are plastic.

Q. As far as the shower chair, is it metal

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or plastic?

A. Parts of it are metal. Parts of it are plastic. Parts of it are other materials.

Q. Do you know whether or not that shower chair was inside the room at all times?

A. It was available at all times.

Q. How would Mr. Flora been able to request the -- Strike that.

In order to use the portable toilet chair, did Mr. Flora have to request the chair?

A. Yes.

Q. How would Mr. Flora request the toilet chair if he needed to use the bathroom?

A. By saying, I request the toilet chair to use the bathroom.

Q. Would that be in writing?

A. In writing? No, Mr. Morrissey.

Q. Again, how would a prisoner who is assigned to 3123 in a wheelchair in August of 2014 request to use the portable toilet chair?

A. By saying, I request to use the portable toilet chair.

Q. Are there doors that one enters and leaves room 3123?

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A. Yes.

Q. And at times, are the doors locked down as far as you know?

A. At times, they are.

Q. If the door to 3123 was locked, how would Mr. Flora have requested to use the portable toilet chair?

A. They're not soundproof. He could ask.

Q. So he would have to yell?

A. No, he wouldn't have to yell.

Q. Are there nurses always stationed outside the door of 3123 to your knowledge 24 hours a day?

A. There's a nursing station right outside the door, yes.

Q. And are there guards that are located right outside the door of 3123?

A. Are there guards?

Q. Yes.

A. There are correctional officers.

Q. Are there correctional officers outside the door?

A. There are.

Q. Was it the sheriff's policy in August

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of 2014 to provide accommodations to wheelchairbound detainees housed in 3123 by providing a portable toilet chair?

A. It's one accommodation that's provided, yes.

Q. And is one of the accommodations the sheriff provides for a wheelchairbound detainee housed in 3123 to require the person to request to use the portable toilet chair?

MR. NICHOLS: Objection to the extent that the question has already been asked and answered, but you can answer the question.

BY THE WITNESS:

A. Yes, they have to request to use the chair if it's not already in their room.

BY MR. MORRISSEY:

Q. Is there any other form of accommodation that the sheriff provided in August of 2014 for a prisoner who was wheelchairbound in 3123?

A. As I previously stated, we provided shower chairs as well.

Q. And in order to use the shower chair, the wheelchairbound prisoner in 3123 would have

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to request the chair?

MR. NICHOLS: Objection to the extent that the question has been asked and answered. You can answer.

BY THE WITNESS:

A. As I previously stated, yes, if it wasn't already in the room.

BY MR. MORRISSEY:

Q. Now, to your understanding, in room 3123 when you examined it a few weeks ago, was there a desk inside that room?

A. I don't recall seeing a desk.

Q. Now, on August 10, 2014, was Mr. Flora moved to room 3125 on 3-South?

A. According to this document, yes.

Q. Going back a moment in regards to 3123, you mentioned that there was a sink inside of 3123 when you examined it a few weeks ago, correct?

A. A toilet/sink combination, yes.

Q. And the sink and the toilet haven't been altered since August of 2014, correct?

A. Not to my knowledge.

Q. What accommodations -- let me go back.

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Did the sink, as far as your understanding of the 1991 ADA design standards, did that comply with the 1991 lavatory design standards for the sink?

MR. NICHOLS: Objection to the extent that the question calls for a legal conclusion. You can answer the question to the extent that you know.

BY THE WITNESS:

A. To the extent that I know, the 1991 standards did not say anything about correctional facilities.

BY MR. MORRISSEY:

Q. That wasn't my question. I'm not asking about your legal understanding of whether or not the 1991 ADA design standards applied to correctional facilities. I'm not. My question was broader than that. Did the 1991 design standards apply to sinks and lavatories?

MR. NICHOLS: Objection to the extent the question calls for a legal conclusion and beyond the scope of the notice. You can answer to the extent that you know.

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BY THE WITNESS:

A. To the extent that I know, the 1991 standards applied to sinks and lavatories, but did not specify within correctional facilities.

BY MR. MORRISSEY:

Q. Based upon your understanding of the 1991 design standards for sinks, did the sink that was and is in 3123, did that comply with that standard?

MR. NICHOLS: Objection to the form of the question to the extent that it calls for a legal conclusion. Tom, would you like to rephrase the question?

MR. MORRISSEY: No.

MR. NICHOLS: You can answer to the extent that you know.

BY THE WITNESS:

A. Mr. Morrissey, I'm maintaining my answer that the design standards did not specify whether or not they applied to correctional facilities.

BY MR. MORRISSEY:

Q. Do you know of any -- since you're a lawyer, do you have any case law that would

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support the sheriff's opinion that the 1991 ADA standards for design do not apply to correctional facilities?

MR. NICHOLS: Objection to the extent that the question calls for a legal conclusion, and it's beyond the scope. I'm going to instruct my client not to answer.

BY MR. MORRISSEY:

Q. As the sheriff's representative, do you know of any case law which exempts the sheriff from the 1991 design standards?

MR. NICHOLS: Same objection. I'm instructing my client not to answer that. That's your burden, Tom.

BY MR. MORRISSEY:

Q. How did the physical feature of the sink in room 3123 accommodate a wheelchairbound detainee's ability to wash up and use the sink?

A. How did it accommodate their ability?

Q. Right.

A. It's a sink. They wash their hands in the sink, Mr. Morrissey.

Q. And there was no obstruction that would prevent them from using the sink?

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A. There could be.

Q. What, if anything, did the sheriff do to accommodate wheelchairbound detainees in using the sink in room 3123?

MR. NICHOLS: Objection. The question is vague. Are we still talking about Donnell Flora?

MR. MORRISSEY: We're talking about Donnell Flora. We're going to go through Donnell Flora, and we're going to go through Mr. Vaughn for each of his --

MR. NICHOLS: I just want to make sure we're talking about Donnell Flora. You can answer the question.

THE WITNESS: What was the question?
(Whereupon, the record was read as requested.)

BY THE WITNESS:

A. I'm not aware of any issues with Mr. Flora using the sink in 3123.

BY MR. MORRISSEY:

Q. That wasn't the question. My question was, how does the sheriff assist or accommodate disabled detainees assigned to 3123 in using the

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sink?

A. That would be an individual basis.

Q. The question is, how does the sheriff accommodate disabled individuals assigned to 3123?

MR. NICHOLS: Same objection. The question is vague. Are we still talking about Flora or just disabled people in general?

MR. MORRISSEY: Disabled detainees. That's what the notice says.

MR. NICHOLS: You can answer.

BY THE WITNESS:

A. Disabilities come in many forms as you know. It would be an individual assessment.

BY MR. MORRISSEY:

Q. Tell me different manners in which the Sheriff of Cook County accommodates disabled detainees using the sink in room 3123.

A. I'm not aware of anyone having disabilities using the sink or inability to use the sink in 3123, Mr. Morrissey.

Q. So you're not aware then of any accommodations provided by the sheriff to

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disabled detainees in using the sink in room 3123?

MR. NICHOLS: Objection. That misstates her previous testimony. You can answer.

BY THE WITNESS:

A. I'm not aware of anyone having a difficulty using the sink, so the accommodation would be based on a difficulty using the sink.

BY MR. MORRISSEY:

Q. Is it your position that if a prisoner assigned such as Mr. Flora to -- is it the sheriff's position that Mr. Flora would have to request an accommodation from the sheriff to use the sink in room 3123?

MR. NICHOLS: Less of an objection, more of a clarification, when you use the term sheriff, are you referring to the sheriff's office?

MR. MORRISSEY: When I do that in this deposition, I don't mean Tom Dart. I mean the sheriff's office.

MR. NICHOLS: Thank you. You can answer.

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THE WITNESS: Can you repeat the question?

(Whereupon, the record was read as requested.)

BY THE WITNESS:

A. No, that is not the sheriff's office position.

BY MR. MORRISSEY:

Q. What is the sheriff's office position in regards to assisting or accommodating disabled prisoners assigned to 3123 using the sink?

A. The sheriff's office position is to provide reasonable accommodations.

Q. And what are those reasonable accommodations?

A. We've never had to provide those accommodations, so I don't know.

Q. How has the sheriff -- does the sheriff have any procedures or policies to accommodate disabled prisoners in using the sink in room 3123 to overcome any physical barriers?

MR. NICHOLS: Objection to the extent that the question is beyond the scope of the

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designation. I'm instructing my client not to answer that question.

BY MR. MORRISSEY:

Q. Do you agree that the toilet could present a physical barrier for a disabled prisoner using the sink in room 3123?

MR. NICHOLS: Objection to the extent the question calls for a legal conclusion. You may answer the question.

BY THE WITNESS:

A. It's possible.

BY MR. MORRISSEY:

Q. How then does the sheriff assist or accommodate prisoners to overcome physical barriers using the standard common sink and toilet combination?

A. Using the sink or the toilet?

Q. The sink?

A. We're not aware of anyone having a physical barrier to the sink, Mr. Morrissey.

Q. Moving right along, Mr. Flora was transferred, I believe, on August 10 to 3125, correct?

A. Correct.

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Q. And he was in there until August 21, correct?

A. Correct.

Q. And that again is in 3-South, correct?

A. It is.

Q. And 3-South had a toilet -- 3-South, 3125, had a toilet/sink combination similar, if not identical to Plaintiff's Exhibit No. 5, Maureen Regan's report, figure 3, on page 6?

A. I don't have an Exhibit 5.

Q. I'm sorry. It's Exhibit 10. I'm sorry. I'm wrong. Go back. It's Exhibit No. 5.

A. Okay.

Q. In room 3125 on 3-South, there is a toilet/sink combination similar to what's depicted in the photograph on Exhibit 5, page 6, figure 3?

A. I believe there is, yes.

Q. And also in that same room, there's a shower that's similar to Exhibit 5, figure 4, in Ms. Regan's report, correct?

A. Again, it's hard to tell from the quality of the photo, but it looks similar.

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Q. Can you tell me, are your answers going to be the same in regards to 3125 as they were to 3123 as far as accommodating a disabled prisoner's use of a toilet in 3125?

A. The accommodations available are the same, yes.

Q. So in order for a disabled prisoner like Mr. Flora to use the toilet, the sheriff would accommodate that need by Mr. Flora requesting to use the portable toilet chair, correct?

MR. NICHOLS: Objection, asked and answered. You can answer.

BY THE WITNESS:

A. If one was not already in his room, yes.

BY MR. MORRISSEY:

Q. And in order for Mr. Flora in 3125 to use the shower, he could request a shower chair from one of the guards or correctional officers if the shower chair was not in the room, correct?

A. Correct.

Q. And the shower, to the best of your

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knowledge having inspected it recently, in 3125 does not have grab bars, correct?

A. It does not.

Q. And the toilet/sink combination doesn't have grab bars, correct?

A. Correct.

Q. And 3125 hasn't been altered to your knowledge since August of 2014, correct?

A. To my knowledge, no.

Q. And are you aware of any accommodations provided to prisoners assigned -- disabled prisoners assigned to 3125 in using the sink?

A. I'm not aware of any prisoners having trouble using the sink in 3125.

Q. Now, looking again at that Exhibit No. 6, Mr. Flora was transferred on at least 9/4/2014 to 9/23/2014, he was transferred over to the new RTU, correct?

A. Correct.

Q. And he was placed in cell block 3-A, correct?

A. Correct.

Q. And a week or 2 ago, you went over to 3-A to inspect the tier?

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A. I've been over there on multiple occasions, but, yes.

Q. How many cells are in 3-A of the RTU?

A. 10 cells.

Q. Is there one cell that's designed to be -- to comply with the 2010 design standards?

A. On 3-A?

MR. NICHOLS: Objection to the extent that it calls for a legal conclusion. You can answer.

BY THE WITNESS:

A. Are we referring solely to 3-A?

BY MR. MORRISSEY:

Q. We're talking about 3-A, correct.

A. Yes, there is one cell.

Q. And that would be cell 10, correct?

A. Correct.

Q. Is it your understanding -- when was the RTU constructed?

A. I don't recall when we broke ground. I believe it was around 2012 or 2013.

Q. Do the 2010 ADA design guidelines apply to the RTU to the knowledge of the sheriff?

MR. NICHOLS: Objection to the extent

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the question calls for a legal conclusion.

You can answer.

BY THE WITNESS:

A. I believe it does.

BY MR. MORRISSEY:

Q. Looking at -- you have Exhibit 15 in front of you, don't you?

A. I do.

Q. And Exhibit 15, if we look at page 3 of Exhibit 15 of the 504 design guide of the ADA, there's a diagram of a correctional toilet, correct, and sink?

A. Are you looking at page 2?

Q. I'm looking at what's marked as page 3.

A. Yes.

Q. If we go back to page 2, maybe that will be a good place to start. Does page 2 of the 504 design guides reflect a clear opening for the door of 32 inches?

A. It does.

Q. Do you know if all 10 cell blocks -- Strike that.

On 3-A, you mentioned there's 10 cells, correct?

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A. Correct.

Q. Do all 10 cells have the same size opening for the doors?

A. I don't know. I would have to review my records.

Q. Do you know whether or not cell 3 has a door width of 32 inches?

A. I don't know. I would have to review my records.

Q. Now, there is a dorm -- there's a cell 10 in the RTU 3-A, correct?

A. Correct.

Q. And does that comply with the 504 design guidelines?

MR. NICHOLS: Objection to the extent that the question calls for a legal conclusion. You can answer to the extent that you know.

BY THE WITNESS:

A. I believe it does.

BY MR. MORRISSEY:

Q. In cell 10, are there side grab bars for the toilet?

A. Yes, there is.

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Q. And is there a grab bar on the side wall that's at least 40 inches long?

A. I believe there is.

Q. And behind the toilet, is there also a grab bar that's 33 by 36 inches?

A. I didn't measure it, but I believe there is.

Q. Is there a reason as the sheriff's representative why the design -- Strike that.

What is the understanding of the sheriff of why there is a -- why there are design guidelines under the ADA for side grab bars?

MR. NICHOLS: Do you understand the question?

THE WITNESS: No.

BY MR. MORRISSEY:

Q. As the sheriff's representative, why are there grab bars required under the 504 design guides for toilets?

MR. NICHOLS: Objection to the extent that it calls for a legal conclusion. You can answer the question.

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A. Do you mean grab bars?

Q. Yes.

A. I don't believe there are.

Q. Now, in addition, in cell 7, 3-A, are there at least 2 beds?

A. There are.

Q. Those are 2 fixed beds, correct?

A. Correct.

Q. And in between each bed, is there a fixed desk, a concrete desk?

A. I believe there is.

Q. And in front of the fixed desk, is there a fixed stool?

A. I believe there is.

(Whereupon, there was a short interruption.)

BY MR. MORRISSEY:

Q. I believe I asked you whether or not there was a desk inside of cell 7 on 3-A at the RTU, and you answered yes?

A. I did.

Q. You also were asked about a fixed concrete stool in front of the desk, correct?

A. Yes.

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BY THE WITNESS:

A. It's to assist people to transfer to the toilet.

BY MR. MORRISSEY:

Q. Now, did you go in -- we mentioned that Mr. Flora was in 3-A 3 -- tier block 3-A, cell 3, from September 4 to September 23, correct?

A. No. It was cell 7.

Q. I'm sorry, cell 7. Now, did you go into cell 7 recently?

A. Yes.

Q. When you went into cell 7, did you examine the toilet?

A. I did.

Q. Did the toilet have a rear side grab bar?

A. It did not.

Q. Did it have a side grab bar?

A. It did not.

Q. Were there any bars to assist a disabled prisoner to use the toilet in cell 7 on cell block 3-A of the RTU?

A. Were there any bars?

Q. Yes.

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Q. And you agree that there is a fixed concrete stool, correct?

A. I believe there is, yes.

Q. The sheriff's understanding of 504 of the design guides, does that permit a fixed seat in front of the desk in a cell?

MR. NICHOLS: Objection to the extent that the question calls for a legal conclusion and objection to the form. It's a compound question. You can answer to the extent you know.

BY THE WITNESS:

A. I don't know.

BY MR. MORRISSEY:

Q. If we look at page 5 to refresh your memory, there's a diagram of a desk. Do you see that? Take a look at that for a moment.

A. Okay.

Q. As the sheriff's representative, would you agree that the 504 design guides require that any seating has to be nonpermanent; it has to be removable?

MR. NICHOLS: Objection to the extent that the question calls for a legal

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conclusion. You can answer to the extent that you know.

BY THE WITNESS:

A. I don't believe the design guide provides for in your words any seating to not have --

BY MR. MORRISSEY:

Q. Well, do you see the spot where it talks about desk clear floor space?

A. I do.

Q. Does it say that any fixed seat needs to be removable? Do you see that?

A. In an accessible cell, yes.

Q. Is cell 7 in 3-A accessible?

MR. NICHOLS: Objection to the extent that it calls for a legal conclusion. You can answer.

BY THE WITNESS:

A. Cell 7 on 3-A is not one of the accessible cells on the tier.

BY MR. MORRISSEY:

Q. And based upon your review of the housing list, was Mr. Flora placed in this inaccessible cell on 3-A, cell number 7, between

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BY MR. MORRISSEY:

Q. Have you been in cell 3 on 3-A of the RTU?

A. I thought we were talking about cell 7.

Q. I'm talking about cell 3 now. Do you recall a week or 2 ago inspecting cell 3 with plaintiff's attorneys in the Wade case, correct?

A. I wasn't in cell 3, no.

Q. But you were with us? You accompanied us?

A. Outside in the dayroom, yes.

Q. Again, does picture -- do the pictures in Group Exhibit 11 fairly and accurately depict what a cell looks like in the RTU, 3?

MR. NICHOLS: Objection to the extent that I don't really see how cell 3 is relevant to Mr. Flora. However, you can answer the question.

BY THE WITNESS:

A. Sure.

BY MR. MORRISSEY:

Q. And cell 7 on tier block 3-A also has 2 beds, concrete beds, in cell 7, correct, just like the group exhibit in Group 11, correct?

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9/4/14 and 9/23/14?

MR. NICHOLS: Objection, asked and answered. You can answer.

BY THE WITNESS:

A. He was placed on 3-A, cell 7, correct.

BY MR. MORRISSEY:

Q. During that period of time?

A. Yes.

Q. Now, I'm going to show you Group Exhibit 11. It's a series of photographs of a cell on 3-A in Division 8. Do you recognize those photographs?

A. Do I recognize the photographs?

Q. Let me rephrase it. Does Group Exhibit 15 fairly -- I'm sorry -- 11, does Group Exhibit 11 fairly and accurately depict a cell on 3-A of the RTU?

MR. NICHOLS: I just want to object to this exhibit to the extent that it hasn't been disclosed or produced to me prior to this deposition. However, you can respond.

BY THE WITNESS:

A. Does it fairly depict the cell? I don't know, Mr. Morrissey.

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A. Just to clarify, Group 11 you said is cell 3?

Q. Correct.

A. All the cell blocks have the same beds.

Q. And they also have the fixed concrete stool that is in front of or underneath the desk -- concrete desk?

A. Do they all have that? No.

Q. Cell 7 just like cell 3 in the RTU, tier 3, also, has a concrete stool in front of the desk, correct?

A. Tier 3-A?

Q. Yes.

A. It does.

Q. Now, the housing record for Mr. Flora indicates that from September 23, 2014, through February of 2016, Mr. Flora was housed in various dormitories on the third floor of the RTU, correct? Let me rephrase it.

Between September 23, 2014, and the time of his release in February of 2016, was Mr. Flora to your knowledge housed in dormitories on the third floor of the RTU?

A. Can you repeat the dates you're asking

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me about?

Q. September 23, 2014, to the time of his release from the jail in February of 2016.

A. And your question is?

Q. Was he housed in dormitories on the third floor of the RTU?

A. The exhibit you provided doesn't have all those dates.

Q. I didn't ask you that.

A. Well, without that record, Mr. Morrissey, I couldn't answer that question.

Q. Did you review any records in preparation for today's deposition?

A. I did, those that have already been turned over to you.

Q. And did you look at records in regards to where he was housed after being in cell 7 in 3-A?

A. I did.

Q. And was he housed in dormitories on the third floor?

MR. NICHOLS: Objection, asked and answered. You can answer.

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BY THE WITNESS:

A. If you could refer me to what document that you're talking about, that would be great.

BY MR. MORRISSEY:

Q. What did you look at as far as Mr. Flora's housing history?

MR. NICHOLS: Objection, asked and answered.

BY THE WITNESS:

A. The complete housing history. What you provided is only part of what we turned over. This is historical bed assignments.

BY MR. MORRISSEY:

Q. Well, this apparently was never updated by your attorney. But from the documents that you looked at, the more recent documents, where else was Mr. Flora housed after being changed -- after he was moved from cell 7 in 3-A?

A. He was housed in a variety of living units.

Q. And were those dormitories?

A. Some of them were.

Q. And was he also housed in cells?

A. Possibly. I would need to review my

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records.

Q. Now, the dormitories, how many dormitories are there on the third floor?

A. There are 6 dormitories on the third floor.

Q. Do each of the dorms have 2 beds which are designed to be accessible for disabled prisoners?

MR. NICHOLS: Objection to the extent that the question calls for a legal conclusion. You can answer.

BY THE WITNESS:

A. 2 of the beds are different from the rest.

BY MR. MORRISSEY:

Q. In each of the dorms?

A. In each of the dorms.

Q. What makes -- each of the dorms has how many beds?

A. 39.

Q. And 2 out of the 39 have an open spot near the desk for a wheelchairbound person to use the desk, correct?

A. Open spot?

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Q. Let me rephrase the question. Now, looking at Exhibit No. 6, we find at least on October 18, 2014, Mr. Flora was in dorm 3-F, correct?

A. Correct.

Q. I'm going to show you a series of pictures which we have marked Plaintiff's Exhibit No. 12 of dorm 3-F.

MR. NICHOLS: I just want to make a standing objection to this exhibit. These pictures were never produced to me or the county prior to this deposition. You may proceed.

BY MR. MORRISSEY:

Q. Exhibit 12 are 5 pages of photographs of the inside of dorm 3-F, correct?

A. I don't know, Mr. Morrissey. There's no way for me to identify that.

Q. If you look at page 4, for instance, there's a bed, correct?

A. Correct.

Q. And on the bed, it's marked 3-F, number 4, correct?

A. It looks like it might be.

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Q. So would that indicate to you that the 3-F means that it's the F dorm?

A. Assuming that is an F, yes.

Q. And you recall when you accompanied us in the Wade case during the inspection -- actually, it was in Flora and Vaughn and Wade, during the inspection when Mr. Nichols was off, we inspected dorm F, correct?

A. I believe so, yes.

Q. And that was the only dorm that the plaintiff's attorneys actually inspected, correct?

A. I don't recall.

Q. If we look at -- assuming Exhibit 12 are pictures of the F dorm -- maybe Ms. Carroll will vouch for the fact, she signed the stipulation. We had a stipulation when we did the inspection that the F dorm -- the other dorms, dorms 3 B, D, and H, had the same layout as 3-F. And Ms. Carroll, I believe, signed the declaration, maybe Dave did. Dave Condrón signed it.

Looking at Exhibit No. 12, do you see on the second page, there appears to be a bed,

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correct?

A. Yes.

Q. And there's tables to the right and left of the bed, correct?

A. Correct.

Q. And if we look at Exhibit 12, page 4, there's a bed 4 with tables to the right and left, correct?

A. Page 4?

Q. Yes, of Group Exhibit 12.

A. Yes.

Q. And the difference between page 2 and 4 as far as the layout of the desk is on page 4, there are concrete stools underneath the desk, the tables, correct?

A. On page 4, correct.

Q. And page 2 appears to be 1 of the 2 beds in dorm 3-F that's considered wheelchair accessible, correct?

A. Correct.

Q. Now, Mr. Vaughn, according to Exhibit No. 6, when he was in 3-F, he was assigned to bed 4, correct?

A. Mr. Vaughn or --

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Q. I'm sorry, Mr. Flora.

A. What was the question?

Q. On at least October 18, 2014, Mr. Flora was assigned to bed 4 in 3-F, correct, in dorm 3-F?

A. From document Exhibit 6, it appears he was.

Q. And bed 4 is not one of the beds that's designed to be accessible for a wheelchair-assisted prisoner, correct?

MR. NICHOLS: Objection to the extent that the question calls for a legal conclusion. You can answer.

BY THE WITNESS:

A. Was it designed to be accessible? I don't know. That's a legal argument you have to make, Mr. Morrissey.

BY MR. MORRISSEY:

Q. As the sheriff's representative, does the sheriff assign wheelchair-assisted prisoners to beds similar to what's depicted in Exhibit 12, page 2 and 3?

MR. NICHOLS: Objection. The question is vague as to time frame and location.

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MR. MORRISSEY: Let me rephrase it.
BY MR. MORRISSEY:

Q. You'll agree that the bed that's depicted on page 2 of Exhibit 12 and the bed that's depicted in picture 3 are used at times by the sheriff to house wheelchair-assisted prisoners, correct?

A. In picture 3?

Q. 2 and 3.

A. Are you referring to pages 2 and 3?

Q. Yes.

A. Those appear to be beds we use, yes.

Q. And those are specifically designed to be used for people that are disabled, correct?

A. Are they specifically designed for that purpose? They're designed to be used by prisoners.

Q. But under the 504 guidelines, the beds that are depicted in pictures -- pages 2 and 3 don't have a fixed stool or chair in front of the desk or the writing table, correct?

A. On pages 2 and 3?

Q. Yes.

A. The beds pictured here do not have a

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desk in front of it.

Q. Whereas on page 4 for bed 4, there are obstructions, concrete stools in front of the writing tables, correct?

A. There are obstructions, or there are concrete stools?

Q. There are concrete stools?

A. There are concrete stools, yes.

Q. And you would agree that those concrete stools -- you as the sheriff's representative would agree that the concrete stools may not comply with the 504 design standards?

MR. NICHOLS: Objection to the extent that the question calls for a legal conclusion. You can answer.

BY THE WITNESS:

A. Do I agree that these beds don't comply with the design standards or --

BY MR. MORRISSEY:

Q. As the sheriff's representative, are there fixed seats that are adjacent to the desk or writing tables depicted on page 4 of Group Exhibit 12?

MR. NICHOLS: Objection, asked and

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answered. You can answer.

BY THE WITNESS:

A. In this picture, yes.

I would like to take a break now.

(Whereupon, a short break was taken.)

BY MR. MORRISSEY:

Q. In regards to dorm F when Mr. Flora was assigned to bed 4, what fixed feature was provided to Mr. Flora in order to write?

A. What fixed feature?

Q. Yes.

A. A desk.

Q. Given that there's -- you would agree that there was a barrier in front of the desk in 4, correct?

MR. NICHOLS: Objection to the extent that the question calls for a legal conclusion.

MR. MORRISSEY: Let me rephrase it.

BY MR. MORRISSEY:

Q. As the sheriff's representative, you would agree that there was a barrier in front of the table next to bed 4?

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MR. NICHOLS: Same objection. You can answer.

BY THE WITNESS:

A. I would agree that there's a stool in front of the table next to bed 4.

BY MR. MORRISSEY:

Q. And the stool is not movable?

A. It is not.

Q. Were there any accommodations made to Mr. Flora when he was assigned to bed 4 on dorm 3-F in order to write or to use the desk?

A. I'm not sure that Mr. Flora had any difficulty using the desk, Mr. Morrissey.

Q. What accommodations are made from the sheriff for disabled detainees assigned to a bed like bed 4 on dorm 3 to write?

A. Can you repeat your question?

(Whereupon, the record was read as requested.)

BY THE WITNESS:

A. What accommodations are provided to detainees assigned to bed 4?

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BY MR. MORRISSEY:

Q. Or to other beds in the dorms that have an obstruction in front of the table or desk?

A. A stool in front of the table, they could side transfer to the stool and use the desk. They can use any table within the dayroom, or they can make a request for another accommodation which we would review.

Q. So the detainee would have to make a request in order to be able to use the table?

MR. NICHOLS: Objection to the extent that it misstates her previous testimony. You can answer.

BY THE WITNESS:

A. To be able to use the table?

BY MR. MORRISSEY:

Q. Let me rephrase the question for you. What accommodation does the sheriff provide for disabled detainees given bed 4 to use the side table to the same extent that an able-bodied person can use the side table?

A. A detainee could transfer to the stool, or they could use the table in the dayroom, or they could request another accommodation which

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we would review.

Q. Now, you mentioned the tables in the dayroom. In Group Exhibit 12, there's photographs of the tables that are in dorm F. Do you see that?

A. I see a picture that resembles the --

Q. Does that picture fairly and accurately depict the tables in the dayroom in dorm 3-F?

A. I believe it does.

Q. Are those tables designed to be accessible for disabled prisoners?

MR. NICHOLS: Objection to the extent that it calls for a legal conclusion. You may answer the question.

BY THE WITNESS:

A. I believe they are.

BY MR. MORRISSEY:

Q. How are the tables depicted in Group Exhibit 12, page 5, designed to be accessible for wheelchairbound detainees?

A. The detainee could transfer to the chair.

Q. Could a wheelchair detainee pull up to the tables in the dayroom in 3-F?

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A. I believe they could.

Q. Now, your attorney has been given a stipulation that followed our inspection last week of the third floor of the RTU. Do you agree that in -- there are dorms 3 B, D, and H on the third floor of the RTU?

MR. NICHOLS: I just want to object to this document to the extent it's my first time seeing this document. And as the attorney of record in this case, I haven't signed off on it. I would at a minimum like my client to have a chance to read this document before you start asking questions.

MR. MORRISSEY: Your fill in, Mr. Cummings, signed off on it. He actually wrote this document.

MR. NICHOLS: But he represents the county and not Sheriff Dart. I represent Sheriff Dart.

MR. MORRISSEY: She can take a moment to look at it.

MR. NICHOLS: Once again, I just want to make it clear, I haven't signed off on this.

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BY MR. MORRISSEY:

Q. Are there dorms B, D, and H on the third floor of the RTU in addition to F?

A. There's B, C, D, G, H, and F.

Q. Did B, C, D, H, and F all have at least -- Strike that.

Did B, C, D, H, and F all have 39 beds?

MR. NICHOLS: I'm going to object to the relevance of this question. It doesn't appear to me just looking at Vaughn and Flora's housing history, either of them were ever in any of these dorms. I understand that the notice was pretty broad, but I'm assuming that at least my reading of it is limited to where they were actually housed.

MR. MORRISSEY: We just received the updated version of the housing for Flora, so I just want to ask a couple quick questions.

MR. NICHOLS: I'm going to maintain my objection. Why don't we just take a break until you show me in the housing as to where they were --

MR. MORRISSEY: I don't want to waste time right now.

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BY MR. MORRISSEY:

Q. Let's go back to Mr. Vaughn for a minute. You previously looked at Exhibit 7-A and 7-B of Mr. Vaughn, correct?

A. I have 7-A.

Q. You should have 7-B, too.

A. And 7-B.

Q. Now, looking at 7-B for a moment, does that reflect that Mr. Vaughn between November 16, 2013, and December 4, 2013, was assigned to 3135 on 3-South?

A. Can you repeat the dates that you're referencing?

Q. Sure. November 16, 2013, to December 4, 2013.

A. November 16, 2013, he was assigned to 3-South, 3135.

Q. And he was there until December 4, 2013?

A. It appears he was.

Q. And you recently were in 3135 prior to this deposition?

A. I was.

Q. Can you tell me whether or not the

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1 toilet in 3135 resembled the toilet that we
2 previously looked at in, I believe it was Regan
3 Exhibit No. 5? Was it similar to, on page 6 of
4 Regan's report which is Exhibit 5 to this
5 deposition, figure 3, the combination
6 toilet/sink?

7 **A. It looks similar, yes.**

8 **Q.** And how did the toilet accommodate a
9 disabled person assigned to room 3135?

10 **MR. NICHOLS:** Objection to the extent
11 the question calls for a legal conclusion.

12 **MR. MORRISSEY:** Let me rephrase it.

13 **BY MR. MORRISSEY:**

14 **Q.** How did the combination toilet/sink
15 found in 3135 accommodate the toileting needs of
16 a disabled detainee?

17 **A. Are you referring to Mr. Vaughn or any
18 disabled detainee?**

19 **Q.** I'm referring to a disabled detainee.

20 **A. What kind of disabled detainee?**

21 **Q.** I'm referring to a disabled person
22 under the ADA.

23 **A. Under the ADA, disability takes many
24 forms.**

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1 **Q.** Can you answer the question?

2 **A. I answered the question.**

3 **Q.** You have not.

4 **A. Would you like to talk about Mr. Vaughn
5 which we're here to discuss?**

6 **Q.** No, I'm the one asking the questions.
7 If you'll allow me to ask it, we can move along
8 here. The question is, how did the combination
9 toilet/sink found in room 3135 accommodate the
10 toileting needs of a disabled detainee housed in
11 that room?

12 **A. I cannot answer that question,
13 Mr. Morrissey, because you're not giving me
14 enough facts to answer that question.**

15 **Q.** The question is, for a disabled
16 detainee -- for a person to be found disabled
17 under the ADA, how did -- who in the sheriff's
18 office makes the determination what type of
19 accommodation a disabled prisoner needs who's
20 assigned to room 3135 on 3-South?

21 **MR. NICHOLS:** Objection to the extent
22 that the question is beyond the scope of the
23 designation. I'm instructing my client not
24 to answer that question.

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1 **MS. CARROLL:** And, also, if you want to
2 ask more specifically about wheelchairs.
3 When you say disabled, it can mean thousands
4 of different things.

5 **BY MR. MORRISSEY:**

6 **Q.** The question -- and I think you're not
7 responding to the notice. The notice
8 specifically says the physical features in 3135
9 which is one of the rooms we acknowledged -- we
10 determined Mr. Vaughn was in. How does that
11 accommodate the toileting needs of a disabled
12 prisoner?

13 **MR. NICHOLS:** Objection to the extent
14 the question calls for a legal conclusion.
15 You can answer the question.

16 **BY THE WITNESS:**

17 **A. Can I see the notice? My answer,
18 Mr. Morrissey, is the same, that it would depend
19 on the disability of the detainee.**

20 **BY MR. MORRISSEY:**

21 **Q.** What do you mean by that?

22 **A. Within the ADA, a disability is
23 described as an impairment -- a major impairment
24 that substantially limits the life activity. So**

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1 **if you would like to ask with respect to Harold
2 Vaughn, I can answer that, but generally
3 broadly, I can't.**

4 **Q.** A life activity is -- we'll come back
5 to the general order here. Would you agree that
6 a major life activity includes but is not
7 limited to being able to walk?

8 **MR. NICHOLS:** Objection to the extent
9 the question calls for a legal conclusion,
10 but you can answer.

11 **BY THE WITNESS:**

12 **A. A major life activity is walking, yes.**

13 **BY MR. MORRISSEY:**

14 **Q.** And standing?

15 **A. Standing, yes.**

16 **Q.** How would the feature -- the physical
17 features in 3135 accommodate a disabled person
18 who has difficulty standing and walking as far
19 as toileting?

20 **A. Difficulty standing or walking or
21 substantially limited in standing or walking?**

22 **Q.** I'll rephrase the question for you, and
23 I don't know that it matters.

24 **A. I think it does matter, Mr. Morrissey,**

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1 because it's in the ADA. Substantial
2 limitations are what applies, not difficulty.

3 Q. Assuming for the moment -- let's take a
4 break.

5 (Whereupon, a short break was
6 taken.)

7 MR. MORRISSEY: Back on the record.

8 BY MR. MORRISSEY:

9 Q. The physical features in room 3135 for
10 a wheelchair-assisted prisoner, what are they?

11 A. What do you mean by wheelchair
12 assisted?

13 Q. A paralyzed person, assuming a person
14 is paralyzed, what physical features are present
15 in room 3135 to assist a paralyzed detainee to
16 toilet?

17 A. As we previously discussed, the toilet
18 chair.

19 Q. And to your knowledge in November of
20 2013, was there always a toilet chair in room
21 3135?

22 A. What document are you referencing? Are
23 we talking about Vaughn?

24 Q. I'm talking about Vaughn. It doesn't

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1 matter whether it's Vaughn or somebody else.
2 We're asking about November of 2013.

3 MR. NICHOLS: It does matter who you're
4 asking about especially since the notice is
5 captioned Harold Vaughn v. Sheriff Dart, but
6 proceed.

7 BY THE WITNESS:

8 A. In November of 2013, there was always a
9 chair either in the room or outside the room to
10 assist with toileting.

11 BY MR. MORRISSEY:

12 Q. Would a disabled person have to request
13 to use the portable toilet chair assuming they
14 had a toilet?

15 A. As I previously stated, it would either
16 be in the room or they would have to request it,
17 yes.

18 Q. Is there always a correctional guard
19 standing outside room 3135 to bring a toilet
20 chair into the room for a person who's disabled
21 to toilet?

22 A. There is always a correctional guard in
23 the dayroom, yes.

24 Q. Is there an intercom in room 3135 for a

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1 prisoner to request the toilet chair?

2 A. I don't recall if there's a call button
3 in that room.

4 Q. Is there any physical feature in room
5 3135 to permit a disabled prisoner to use the
6 sink?

7 A. I'm not aware of a disabled person
8 having any difficulty using the sink.

9 Q. When you say you're not aware, you're
10 saying the sheriff is not aware of any prisoner
11 having difficulty using the sink when they were
12 housed in 3135; is that correct?

13 MR. NICHOLS: Objection to the extent
14 that it misstates her previous testimony.

15 You can answer.

16 BY THE WITNESS:

17 A. I don't recall the sheriff's office
18 being put on notice of any such difficulty.

19 BY MR. MORRISSEY:

20 Q. Do you know what type of toilet chair
21 was available to be brought into room 3135 for a
22 disabled prisoner to toilet in November of 2013?

23 A. As I previously stated, I don't know
24 the brand.

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1 Q. Did the arms move up and down on that
2 portable chair, toilet chair in November of 2013
3 which was available to be used in 3135?

4 A. There were some toilet chairs where the
5 arms did move, yes.

6 Q. Do you know whether in November of 2013
7 when Vaughn was in 3135, whether the toilet
8 chair in use at that time, the arms would go up
9 and down?

10 A. I don't know if the specific chair
11 Vaughn used had movable arms.

12 Q. Do you know whether or not the toilet
13 chair in use on 3-South in November of 2013 had
14 wheels?

15 A. It may have.

16 Q. Do you know whether or not -- as the
17 sheriff's representative -- whether or not the
18 toilet chair in use on 3-South had wheels or
19 not?

20 A. It may have, Mr. Morrissey. There's
21 more than one different kind of chair.

22 Q. Describe the different types of chairs
23 in use in November of 2013 on 3-South.

24 A. There's a metal toilet chair with a

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1 plastic seat. There's a metal shower chair that
2 doubles as a toilet chair with a padded seat.

3 Q. If Mr. Vaughn or another disabled
4 prisoner assigned to room 3135 requested a
5 portable toilet chair in order to toilet, would
6 a correctional officer assist the prisoner on
7 and off the portable toilet chair?

8 MR. NICHOLS: Objection. The question
9 is vague as to time frame. You can answer.

10 MR. MORRISSEY: Let me rephrase the
11 question.

12 BY MR. MORRISSEY:

13 Q. Did one of the accommodations in
14 November of 2013 for accommodating a prisoner
15 toileting in 3135 include a sheriff's employee
16 assisting the person on and off the portable
17 toilet chair?

18 A. A sheriff's employee, no.

19 Q. Do you know whether or not the user
20 manual for the portable toilet chairs in use
21 on 3-F -- I'm sorry -- 3-South specified that
22 they could only be used with assistance?

23 MR. NICHOLS: Objection to the extent
24 that the question is vague as to time frame.

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1 MR. MORRISSEY: Let me rephrase it.

2 BY MR. MORRISSEY:

3 Q. Between November 16, 2013, and
4 December 4, 2013, do you know whether or not the
5 warranty or user manual for the toilet --
6 portable toilet chair or chairs used on 3-South
7 included a warning that the chair or chairs
8 should only be used with assistance?

9 A. A product disclaimer may have been
10 included, yes.

11 Q. Did the sheriff, based upon a warning
12 on the portable toilet chair, ensure that there
13 was always a correctional officer to assist a
14 prisoner on and off of the portable toilet chair
15 that was used on 3-South?

16 MR. NICHOLS: Objection to the extent
17 that the question is vague as to time frame.
18 You can answer.

19 MR. MORRISSEY: Again, it's between
20 November 16, 2013, and December 4, 2013.

21 THE WITNESS: Can you repeat the
22 question?

23 (Whereupon, the record was read
24 as requested.)

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1 BY THE WITNESS:

2 A. I don't believe the product label
3 referred to correctional officers.

4 BY MR. MORRISSEY:

5 Q. Let me rephrase the question. The
6 portable toilet chairs in use on 3-South in
7 November of 2013 included a warning that the
8 chair shouldn't be used without assistance,
9 correct?

10 A. I disagree with the word warning.

11 Q. There was a caution that indicated on
12 the chair or chairs that they should be used
13 with assistance, correct?

14 A. There was a general product label, yes.

15 Q. On the chairs themselves?

16 A. Similar to lots of items, yes,
17 Mr. Morrissey.

18 Q. Is it your testimony that one of the
19 accommodations for prisoners who were disabled
20 in 3135 was for a sheriff's employee to bring a
21 portable toilet chair into the room so a
22 disabled prisoner could toilet?

23 A. A disabled prisoner?

24 Q. Correct.

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1 A. I don't know what you mean by that.

2 Q. Let's use the very basic. Assuming a
3 paralyzed prisoner was assigned to 3135, the
4 policy of the sheriff was to bring -- to have a
5 sheriff's employee bring the portable toilet
6 chair into the room if the person requested to
7 use it, correct?

8 MR. NICHOLS: Objection. The question
9 is vague as to time frame.

10 MR. MORRISSEY: Again, Mr. Nichols,
11 we're talking about November 16, 2013, to
12 December 4, 2013.

13 MR. NICHOLS: And I have an objection
14 to relevance. Is Harold Vaughn paralyzed?
15 You can answer the question to the extent
16 that you know.

17 THE WITNESS: Can you repeat the
18 question?

19 (Whereupon, the record was read
20 as requested.)

21 THE WITNESS: Can you rephrase that
22 question, Mr. Morrissey?

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BY MR. MORRISSEY:

Q. What don't you understand about the question?

A. It's a compound question. You're asking several different things within a question.

Q. All right. Hypothetically let's say that a prisoner was assigned to 3135 during the time period November 16, 2013, to December 4, 2013. Do you understand that?

A. I understand that.

Q. Assuming that the prisoner assigned to that room requested a toilet chair in order to have a bowel movement, do you understand that?

A. Assuming that the prisoner assigned to that room needed a toilet chair to have a bowel movement?

Q. Do you understand that aspect?

A. I think it's a big assumption to make since the prisoner that you're referring to is Harold Vaughn. That's the one that was assigned to the room.

Q. Let's assume that there's a disabled prisoner in there at that time period, okay?

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A. What do you mean by disabled?

Q. Somebody that's covered under the ADA, all right?

A. Somebody or Mr. Vaughn?

Q. Just a person who's covered --

A. A general person?

Q. A general person covered under the ADA, assuming that person covered under the ADA requested a toilet chair from the sheriff's employee, would the sheriff's employee bring the chair into the room?

MR. NICHOLS: Same objection. You can answer.

BY THE WITNESS:

A. Covered by the ADA? Lots of prisoners are covered by the ADA. If they needed a toilet chair to assist them with toileting, it would be provided either by a sheriff's employee, by a county health employee, by anyone, Mr. Morrissey.

BY MR. MORRISSEY:

Q. Whose responsibility would it be in November of 2013 if a detainee in room 3135 requested a toilet?

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A. It's everyone's responsibility. It's all of the staff's responsibility to provide reasonable accommodations.

Q. If the sheriff's employee on 3-South brought the chair into room 3135, would the sheriff's employee provide assistance to the detainee for getting on and off the portable toilet chair?

MR. NICHOLS: Objection. The question is vague as to time frame. You can answer.

MR. MORRISSEY: Let me rephrase the question.

BY MR. MORRISSEY:

Q. Assuming a sheriff's employee brought a portable toilet chair into room 3135 in November of 2013 for the person to toilet, does part of accommodations include the sheriff's employee assisting the prisoner on and off the portable toilet chair?

A. Potentially. It would also include medical staff assisting if that assistance is needed.

Q. You seem to have some knowledge about Harold Vaughn as the sheriff's representative?

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A. I have lots of knowledge of Harold Vaughn.

Q. In November of 2013, if Harold Vaughn requested a portable toilet chair, would he have been entitled to it under the sheriff's policy when he was inside room 3135?

MR. NICHOLS: Objection to the extent the question calls for a legal conclusion. You can answer.

BY THE WITNESS:

A. Would he be entitled to it? The sheriff's policy is to provide reasonable accommodation. Do I believe Mr. Vaughn needed that accommodation? No, I do not.

BY MR. MORRISSEY:

Q. The question is, as the sheriff's representative, if Mr. Vaughn was assigned to 3135 in November of 2013 and he requested to use a portable toilet chair, would he be entitled to it under the sheriff's policies?

MR. NICHOLS: Same objection and asked and answered. You can answer.

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BY THE WITNESS:

A. I take issue with your word entitled.

BY MR. MORRISSEY:

Q. What is your issue with the word entitled?

A. I don't believe it appears in the ADA, Mr. Morrissey. ADA is about reasonable accommodations.

Q. Let me rephrase it. Would the sheriff in November of 2013 have provided the accommodation to Mr. Vaughn of bringing a portable toilet chair into 3135 if he requested it?

A. If he requested it, they likely would.

Q. Does the sheriff agree that Mr. Vaughn is disabled under the ADA?

MR. NICHOLS: Objection to the extent that the question calls for a legal conclusion. I'm instructing my client not to answer that question.

BY MR. MORRISSEY:

Q. Does the sheriff make any evaluation whether or not a prisoner is disabled -- Strike that.

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A prisoner that's assigned to 3135 like Mr. Vaughn, is it up to the sheriff to determine whether or not they receive an accommodation under the ADA?

MR. NICHOLS: Objection, asked and answered. You can answer the question.

BY THE WITNESS:

A. Is it up to the sheriff to determine? No.

BY MR. MORRISSEY:

Q. Who makes that determination?

A. A medical professional.

Q. If a disabled prisoner is given a walker to assist him with either walking or standing, under the ADA, if that person requests a portable toilet chair, is he given one?

MR. NICHOLS: Objection. The question is vague as to time frame, and the question calls for a legal conclusion. You can answer the question.

BY THE WITNESS:

A. Can you rephrase the question?

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BY MR. MORRISSEY:

Q. Sure. Let's assume in November of 2013 Mr. Vaughn was given -- had a medical order for a walker when he was assigned to 3135, would he then be entitled to an accommodation to use the toilet by the sheriff?

MR. NICHOLS: Objection to the extent the question calls for a legal conclusion. You can answer.

BY THE WITNESS:

A. Everyone is allowed to use the toilet, Mr. Morrissey.

BY MR. MORRISSEY:

Q. Would he have been permitted the accommodation of requesting to use a portable toilet chair in order to toilet in 3135 if he had been given a medical order for a walker?

A. As I previously stated, yes.

Q. If Mr. Vaughn had a medical order for a wheelchair and was assigned to 3135, would he be provided a portable toilet chair if he requested it in order to toilet in that room?

A. As I previously stated, more than likely, yes.

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Q. If Mr. Vaughn had an order for a wheelchair in November of 2013, would he have been assigned to room 3135 if the room did not have an accessible toilet?

MR. NICHOLS: Objection to the extent that the question is beyond the scope of the witness' designation. I'm instructing her not to answer that question.

BY THE WITNESS:

A. My attorney has instructed me not to answer the question.

BY MR. MORRISSEY:

Q. Who from the sheriff determines if a plaintiff assigned to, let's say, room 3135 will receive a portable toilet chair or not?

MR. NICHOLS: Objection to the extent the question is vague as to time frame. You can answer.

MR. MORRISSEY: Let me rephrase the question.

BY MR. MORRISSEY:

Q. Mr. Vaughn was in this room between November 16, 2013, and December 4, 2013. Was it up to the tier officer on 3-South whether or not

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1 to give Mr. Vaughn a portable toilet chair if he
2 requested it to toilet in room 3135?

3 **A. It's not up to the discretion of the**
4 **officer whether or not to provide a reasonable**
5 **accommodation.**

6 Q. Is it up to the ADA compliance officer
7 whether or not Mr. Vaughn should be given upon
8 request a portable toilet chair in room 3135 in
9 order to toilet?

10 **A. Can you rephrase the question?**

11 Q. No. I can repeat it.

12 **A. If you can't rephrase it, then I can't**
13 **answer it.**

14 Q. Who within the sheriff's office makes
15 the decision whether a prisoner assigned to 3135
16 will receive upon request a portable toilet
17 chair to toilet?

18 **A. I don't understand the question.**

19 Q. Sure. In November of -- what don't you
20 understand about it?

21 **A. It's confusing. Who within the**
22 **sheriff's office decides whether or not to**
23 **provide a reasonable accommodation?**

24 Q. Sure. You mentioned that for a

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1 disabled person assigned to 3135, one of the
2 accommodations for a disabled person is to bring
3 in a portable toilet chair, correct?

4 **A. For a disabled person -- that's a**
5 **mischaracterization of what I said.**

6 Q. What did you say?

7 **A. You previously referred to paralyzed**
8 **prisoners and then switched topics to talk about**
9 **Mr. Vaughn. So I'm having trouble following**
10 **your line of questioning.**

11 Q. I'm talking about somebody who
12 qualifies under the ADA. Do you understand
13 that?

14 **A. I don't.**

15 Q. You don't?

16 **A. No, because there are a lot of people**
17 **who are qualified under the ADA that don't need**
18 **accessible toilets.**

19 Q. Let's assume that a person is qualified
20 under the ADA to have an accessible toilet. Who
21 within the sheriff's office decides whether or
22 not the reasonable accommodation of providing a
23 portable toilet chair in 3135 is going to be
24 given or not?

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1 MR. NICHOLS: Objection. The question
2 is vague as to time frame. You can answer.
3 BY THE WITNESS:

4 **A. I believe I have answered that**
5 **question.**

6 BY MR. MORRISSEY:

7 Q. I would like you to answer it, please.

8 **A. Again? I'll answer it again. A**
9 **medical professional determines whether or not a**
10 **person is disabled within the meaning of the**
11 **ADA, and we will provide reasonable**
12 **accommodations. It's not up to the discretion**
13 **of an officer.**

14 Q. How does the sheriff find out that
15 determination by a medical officer? Let me
16 rephrase it. You said that the determination
17 whether a person is disabled or not is made by
18 the medical staff at the jail, correct?

19 **A. Medical professional, yes.**

20 Q. How does the sheriff learn that
21 information from the medical staff?

22 **A. Through medical alerts.**

23 Q. And if the medical alert indicates that
24 a person needs -- what medical alerts are

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1 provided to the sheriff's office?

2 MR. NICHOLS: Objection. The question
3 is vague as to time frame.
4 BY MR. MORRISSEY:

5 Q. In the period of time when Mr. Vaughn
6 has been housed in the jail, what medical alerts
7 are provided by the medical staff to the
8 sheriff's office?

9 **A. There are hundreds of medical alerts.**

10 Q. What medical alerts relevant to an ADA
11 toilet are provided by the medical staff to the
12 sheriff's office?

13 MR. NICHOLS: Objection. The question
14 is vague as to time frame. You can answer.

15 MR. MORRISSEY: The time frame is
16 between the time Mr. Vaughn came in and the
17 present because he'll still there.

18 THE WITNESS: I don't understand your
19 question.

20 BY MR. MORRISSEY:

21 Q. You said that the medical professionals
22 provide medical alerts to the sheriff's office
23 in regards to ADA issues, correct?

24 **A. In regards to a lot of issues.**

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Q. But I'm referring to ADA. What type of medical alerts does the medical staff provide the sheriff in regards to an ADA toilet for prisoners?

A. There's no medical alert for an ADA toilet.

Q. How then does the sheriff determine whether or not a prisoner -- Strike that.

From the medical alerts provided by the medical staff, how does the sheriff determine whether or not a prisoner should receive an accommodation for toileting?

MR. NICHOLS: Objection to the extent that the question is vague as to time frame, and it's probably beyond the scope of the notice. However, I will allow my client to answer this one question. You can answer.

THE WITNESS: What was the question?

(Whereupon, the record was read as requested.)

BY THE WITNESS:

A. It's a collaborative effort.

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BY MR. MORRISSEY:

Q. What alerts -- you said that the medical alerts from the professional medical staff are given to the sheriff when there's a need to accommodate a prisoner toileting at the jail?

A. That's not what I said.

Q. Does the sheriff defer to the medical staff in regards to providing an accommodation to prisoners in regards to toileting -- in regards to requiring an accommodation for toileting?

MR. NICHOLS: Objection. The question is vague as to location and time frame. You can answer to the extent you know.

BY THE WITNESS:

A. It's a collaborative effort.

BY MR. MORRISSEY:

Q. What role does the sheriff have in determining that a prisoner needs an accommodation for toileting?

MR. NICHOLS: Objection. The question is vague as to time frame --

MR. MORRISSEY: The time frame covers

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the time period that Mr. Vaughn has been in the Cook County Jail.

MR. NICHOLS: It's still vague as to location. You can answer the question.

THE WITNESS: What was the question?

MR. MORRISSEY: We'll take a break.

(Whereupon, a short break was taken.)

MR. MORRISSEY: Back on the record.

BY MR. MORRISSEY:

Q. You agree that if a prisoner was assigned to 3135 on 3-South and was paralyzed, he could request the use of a portable toilet chair to accommodate his toileting, correct?

A. Correct.

Q. In order for a paralyzed person assigned to 3135 to use the toilet, he had to request to use the portable chair under the sheriff's policy, correct?

MR. NICHOLS: Objection. The question is vague as to time frame, and I'm not sure of the relevance of the question to either of these cases as Mr. Flora was never in 3135.

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MR. MORRISSEY: I'm talking about Vaughn.

MR. NICHOLS: Was Mr. Vaughn paralyzed?

MR. MORRISSEY: You can answer.

MR. NICHOLS: I'm going to maintain my objections, but you can answer the question.

THE WITNESS: What was the question?

(Whereupon, the record was read as requested.)

BY THE WITNESS:

A. The sheriff's policy does not specifically speak to toilet chairs, but such a request could be made if it wasn't already in the room.

BY MR. MORRISSEY:

Q. So I understand the sheriff's position, if the sheriff placed him in 3135 -- a paralyzed person in 3135 in November of 2013, the sheriff would accommodate the person's toileting needs by setting up a procedure where the person could request to use a portable toilet chair, correct?

MR. NICHOLS: Objection to the extent that the question is vague as to time frame and, again, I'm not sure of the relevance of

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a paralyzed person since Harold Vaughn wasn't paralyzed. Also, you're asking questions about policies which Ms. Rivero-Canchola was not designated for other than the one described in the notice which you guys haven't asked about yet. I'm instructing my client not to answer the question.

MR. MORRISSEY: The question provides in regards to rooms that Mr. Vaughn was assigned to, and we're asking how a person who's disabled assigned to that room is given an accommodation if they need it.

MR. NICHOLS: You actually asked about a paralyzed person.

MR. MORRISSEY: We'll just use the word disabled then.

BY MR. MORRISSEY:

Q. How does the sheriff -- Strike that.

It's the sheriff's policy as far as accommodating a person who's disabled in room 3135 that they can request the use of a portable toilet chair, correct?

A. I don't know what you mean by disabled.

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Q. That's what the notice says, disabled.

A. Yes, it's your notice --

Q. We'll take the extreme. We'll say a paralyzed wheelchairbound detainee. It's the sheriff's policy assuming the person is paralyzed in a wheelchair and assigned by the sheriff to 3135, the sheriff will provide an accommodation for the person to toilet if they request the use of a portable toilet chair, correct?

MR. NICHOLS: Objection to the relevance of the question, and it's beyond the scope of her designation. I'm instructing my client not to answer.

MR. MORRISSEY: It says disabled.

MR. NICHOLS: Mr. Vaughn is not paralyzed. Nothing in section 5 of the notice refers to policies of the sheriff. It's talking about accommodations. It's talking about physical features, immovable features.

BY MR. MORRISSEY:

Q. What accommodations for a person like Mr. Vaughn who had a stroke and was assigned to

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3135 in November of 2013, what accommodations did the sheriff provide for his toileting needs?

MR. NICHOLS: Objection, asked and answered. You can answer.

BY THE WITNESS:

A. I'm not sure Mr. Vaughn needed an accommodation for his toileting needs, but the toilet chairs are available either in the cell or by request.

BY MR. MORRISSEY:

Q. Are individuals that are considered disabled as far as walking and standing under the ADA assigned to rooms that are not ADA accessible at the jail?

MR. NICHOLS: Objection. The question is overbroad as to time frame and location. I'm actually going to instruct my client not to answer unless you can narrow down the time frame and location.

BY MR. MORRISSEY:

Q. Since you want to talk about Mr. Vaughn, what medical alerts were given by Cermak in regards to Mr. Vaughn?

A. A variety of medical alerts.

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Q. Was there a medical alert that he should be given a wheelchair at times?

A. At times, yes.

Q. Was there a medical alert that he should be given a wheelchair for long distance?

A. At times, yes.

Q. Was there a medical alert that he should be given a walker?

A. Possibly.

Q. Were there medical alerts that he should be assigned to the M-4 level of care at the jail?

A. Possibly.

Q. And M-4 is the infirmary at the jail?

A. I believe it is.

Q. And that's the highest level of care at the jail?

A. I believe it is.

Q. And M-3 is what?

A. Would be the next step down.

Q. Assuming that Mr. Vaughn was in -- what is Mr. Vaughn currently? Are there any medical alerts that Mr. Vaughn currently has from Cermak?

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MR. NICHOLS: Objection. The question is beyond the scope of the designation. However, I will allow you to answer this question.

THE WITNESS: What was the question?

BY MR. MORRISSEY:

Q. Are you aware of any medical alerts for Mr. Vaughn currently?

MR. NICHOLS: Same objection. You can answer the question.

BY THE WITNESS:

A. I'm aware he has medical alerts, yes.

BY MR. MORRISSEY:

Q. And including being assigned or ordered a wheelchair?

A. Being allowed the use of a wheelchair, yes.

Q. And is Mr. Vaughn currently assigned to the RTU?

A. He is.

Q. Is Mr. Vaughn currently assigned to one of the segregation cells in the RTU?

A. No, he's not.

Q. Is Mr. Vaughn currently assigned to one

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of the protective custody dorms -- Strike that.

Is Mr. Vaughn currently assigned to a protective custody cell in the RTU?

A. He is.

Q. Is Mr. Vaughn in tier 3, cell 7 currently?

A. I don't believe he is.

Q. What cell is he in?

A. Possibly 8 or 9. I'm not sure without reviewing my records.

Q. And that would be in tier 3?

A. Tier 3-E.

Q. Are either cells 8 or 9 where Mr. Vaughn is currently housed considered accessible cells?

A. Where Mr. Vaughn is potentially housed? It would depend on the nature of the disability.

Q. You said that currently Mr. Vaughn has a medical alert for a wheelchair?

A. He does.

Q. And he's either -- based upon your review of his records, he's either --

MR. MORRISSEY: Well, we'll take a break. We'll find out in a second.

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(Whereupon, a short break was taken.)

BY MR. MORRISSEY:

Q. Does the sheriff's office maintain an inmate locator on a website?

A. Does the sheriff's office maintain that?

Q. Right.

A. I don't know who maintains it.

Q. You know that there's a DOC inmate locator, correct?

A. Yes, I do know that.

Q. Showing you -- rather than printing it out, I'll show you what the website shows where Mr. Vaughn is currently located.

MR. NICHOLS: Just for the record, the witness is observing what appears to be a web page of Sheriff Dart inmate locator, and it appears that Harold Vaughn is on the screen.

BY MR. MORRISSEY:

Q. Does that reflect that Mr. Vaughn is on the third floor, 3-E, in cell number 7?

A. It does.

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Q. On the E tier, is there an accessible cell on the E tier?

A. There is.

Q. What cell is that?

A. That's cell 10.

Q. And Mr. Vaughn is in cell 7, correct?

A. That's what that screen says. I'm not sure it's updated.

Q. And if we look at -- if we go back to 7-A or 7-B, does that reflect when Mr. Vaughn came into cell 7?

A. It does have a start date and an end date, correct.

Q. Showing you what's been marked as 7-C, it's a bed assignment sheet. I believe you brought this in today. It shows a start date on 3-E in cell 7 on May 10, 2016, correct?

A. 7-C or 7-A?

Q. 7-C.

A. Is that the same as 7-A?

Q. 7-C. I just handed it to you.

A. I believe, yes, it's the same as 7-A.

Q. So he's been in cell 7 since May 10, 2016, correct?

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A. From this sheet, it appears, yes.

Q. Cell 7 is similar to -- cell 7 has a toilet that does not have grab bars, correct?

A. The toilet in cell 7 does not have grab bars.

Q. And the entry width of the door to cell 7 is not 32 inches or wider; it's not a 32-inch clear opening width; isn't that correct?

A. I don't know that.

Q. The sheriff has received -- the sheriff's office has received a medical alert -- currently has a medical alert that Mr. Vaughn has a medical order for a wheelchair, correct?

MR. NICHOLS: Objection, asked and answered. You can answer the question.
BY THE WITNESS:

A. Mr. Vaughn has an alert to use a wheelchair, yes.

BY MR. MORRISSEY:

Q. And in cell 7, there's a fixed stool that's in front of the writing desk, correct?

A. Correct.

Q. And 3-E, cell 10, the writing desk does not have a fixed stool, correct?

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A. It does not.

Q. If Mr. Vaughn today needs to use the washroom when he's locked in his cell, in cell 7 -- Strike that.

Assuming Mr. Vaughn needs assistance to use the toilet in room 7, what accommodation does the sheriff provide Mr. Vaughn?

A. Assuming he needs assistance, which would be a very big assumption, he would be let out into the dayroom to use the toilet or he could use the toilet in his room.

Q. If Mr. Vaughn needed to use a writing table, what accommodation would be provided to Mr. Vaughn in cell 7?

A. Mr. Vaughn does not need an accommodation to use the writing table.

Q. Does Mr. Vaughn have to request from the sheriff in order to use a toilet that contains grab bars to assist in transferring on and off the toilet?

MR. NICHOLS: Objection. The question is vague as to time frame and location.

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BY MR. MORRISSEY:

Q. Today, June 29, 2016, if Mr. Vaughn wants to use a toilet that has grab bars that's compliant with the 504 design guides, he has to make a request to the sheriff to use the dayroom toilet; is that correct?

A. Assuming he needs to use the dayroom toilet, yes.

Q. You're familiar with Judge Phillips' (phonetic) opinion in the Clemmons vs. Sheriff Dart case, correct, that was issued on March 9, 2016, correct?

MR. NICHOLS: Objection. The question is beyond the scope of Ms. Rivero-Canchola's designation. I'm instructing her not to answer that question.

BY MR. MORRISSEY:

Q. Does the sheriff's office maintain records -- medical records involving prisoners separate and apart from Cermak?

MR. NICHOLS: Objection to the extent the question is well beyond the scope of the witness' designation. I'm instructing her not to answer the question.

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BY MR. MORRISSEY:

Q. Is it your position that Mr. Vaughn does not need an accommodation for toileting in cell 7 of 3-E?

A. It is my position that he does not need such an accommodation, but we provide it.

Q. Is it the sheriff's position?

A. It is not the sheriff's position -- it is the sheriff's position, Mr. Morrissey, that he does not need such an accommodation, but we do provide it.

Q. What does the sheriff base the position that after a medical -- there's been a medical alert that Mr. Vaughn requires a wheelchair, what does the sheriff base its opinion that he does not require an accommodation for toileting while he's housed in cell 7 in 3-E?

A. The medical alert does not say that Mr. Vaughn requires a wheelchair.

Q. Does the medical alert provide an order for Mr. Vaughn that he can have a wheelchair?

A. It's a prescription to have a wheelchair.

Q. Given that there's a medical

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prescription for Mr. Vaughn to be given a wheelchair, what basis does the sheriff have that Mr. Vaughn currently does not require an accommodation for his toileting needs in cell 7?

A. The basis is observation, observation of Mr. Vaughn not needing a wheelchair.

Q. Who made the observation that Mr. Vaughn today, even though he has a medical prescription for a wheelchair, does not need an accommodation for toileting?

A. Many entities within the sheriff's office.

Q. Who within the sheriff's office --

A. As well as Cook County Health.

Q. Who within the sheriff's office has made the determination that --

A. That wasn't your question, Mr. Morrissey.

Q. Well, let me give you the question. Who within the sheriff's office has made a determination that Mr. Vaughn does not require a housing accommodation so that he can toilet?

A. No one has made such a determination.

Q. Can the sheriff's office override the

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medical staff's determination that a prisoner is entitled to or has an order for a wheelchair?

MR. NICHOLS: Objection. The question is vague as to time frame, location. It's overbroad and beyond the scope --

MR. MORRISSEY: Let me rephrase it.

BY MR. MORRISSEY:

Q. Between November 16, 2013, and December 4, 2013, when Mr. Vaughn was assigned to 3135 in 3-South, was there a medical alert for Mr. Vaughn in regards to standing or walking?

A. I don't know what document you're referencing as far as 3135.

Q. As the sheriff's representative, during that period of time, 11/16/2013 to December 4, 2013, is it the sheriff's position that Mr. Vaughn did not require an accommodation in a housing unit that would provide him his toileting needs?

A. Can you repeat the question?

(Whereupon, the record was read as requested.)

MR. NICHOLS: Objection to the form of

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the question and to the extent the question seeks a legal conclusion. You can answer the question.

BY THE WITNESS:

A. Mr. Vaughn was provided with an accommodation whether or not there was a determination made that he needed it.

BY MR. MORRISSEY:

Q. The accommodation didn't provide him with a housing unit that had an accessible toilet, correct, under the 504 design standards?

A. The accommodation was the toilet chair.

Q. Is the accommodation of providing a portable toilet chair, is that the same as placing Mr. Vaughn in a room that had grab bars around the toilet?

A. It's a reasonable accommodation.

Q. Does the sheriff consider that to be an equivalent accommodation to provide Mr. Vaughn in November of 2013 with a toilet chair upon request when he was assigned to 3135 in lieu of an accessible toilet chair under the ADA?

MR. NICHOLS: Objection to the extent the question --

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MR. MORRISSEY: Let me rephrase the question. You're right.

BY MR. MORRISSEY:

Q. Does the sheriff consider providing -- does the sheriff's policy to provide a portable toilet chair in the sheriff's opinion provide an equivalent accommodation for Mr. Vaughn to being placed in a room with an accessible toilet?

MR. NICHOLS: Objection to the form.

It's a compound question. Objection to the extent that it calls for a legal conclusion. You can answer the question to the extent you know.

BY THE WITNESS:

A. I don't understand the question, Mr. Morrissey.

BY MR. MORRISSEY:

Q. Sure. The accommodation in November of 2013 when Mr. Vaughn was in 3135 was upon request, he could receive a portable toilet chair from a sheriff's employee, correct?

A. If one wasn't available in the room, he could request it.

Q. Does the sheriff consider that policy

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1 of providing a portable toilet chair to be
2 equivalent to placing Mr. Vaughn in a room that
3 had an accessible toilet with grab bars and the
4 appropriate elevated toilet?

5 MR. NICHOLS: Objection to the extent
6 the question calls for a legal conclusion.
7 I'm instructing my client not to answer that
8 question as phrased.

9 BY MR. MORRISSEY:

10 Q. Can you answer?

11 A. My attorney instructed me not to answer
12 it.

13 Q. In regards to the sink that was in
14 3135, what accommodation was provided for
15 Mr. Vaughn between November 16, 2013, and
16 December 4, 2013?

17 A. I don't believe Mr. Vaughn requested
18 such an accommodation. I believe he was able to
19 use the sink.

20 Q. Does the sheriff have knowledge that
21 Mr. Vaughn was able to use the sink in the same
22 way that an able-bodied person could use it
23 between November 16, 2013, and December 4, 2013?

24 A. As I previously stated, he didn't

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1 request any such accommodation, so one would
2 assume he could use the sink.

3 Q. Did Mr. Vaughn to your knowledge --
4 Strike that.

5 What accommodation was provided for
6 Mr. Vaughn when he was assigned to 3135 as far
7 as showering?

8 A. As previously stated, a shower chair
9 was provided to inmates.

10 Q. Do you know whether or not the shower
11 chair -- the accommodation that was provided for
12 showering for Mr. Vaughn in 3135 included
13 placing the shower chair inside the shower in
14 3135?

15 A. I believe it did.

16 Q. Do you know whether or not the shower
17 chair that was used in November of 2013 in room
18 3135 had wheels?

19 A. I don't know which specific shower
20 chair he used.

21 Q. Do you know whether or not the shower
22 chair that was used for prisoners in room 3135
23 had any warning or caution label on the chair?

24 A. I don't know which specific shower

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1 chair he used, but chairs often have product
2 disclaimers.

3 Q. For the period of time December 4,
4 2013, to February 2, 2014, was Mr. Vaughn in
5 3119 in 3-South?

6 A. Which exhibit are you referring to?

7 Q. Exhibit 7.

8 A. 7-A, B, C?

9 Q. If we look at 7-A for a moment -- do
10 you see on 7-B, it reflects that Harold Vaughn
11 was in cell 3119 on December 4, 2013?

12 A. Yes.

13 Q. Now, is 3119 on 3-South, is that
14 considered an accessible cell?

15 MR. NICHOLS: Objection to the extent
16 that the question calls for a legal
17 conclusion. You can answer.

18 BY THE WITNESS:

19 A. Is it considered an accessible cell as
20 in is it modeled after the design standards?
21 No.

22 BY MR. MORRISSEY:

23 Q. Does it have the combined toilet/sink
24 that's found on Exhibit 5, page 6, figure 3, in

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1 Ms. Regan's assessment report?

2 A. Similar, yes.

3 Q. Did it have a shower component similar
4 to figure 4 in Exhibit 5?

5 A. It's difficult to tell from the quality
6 of the picture, but it may be.

7 Q. Did you inspect that as part of your
8 preparation for this deposition?

9 A. Did I inspect your photo?

10 Q. No. Did you inspect room 3119?

11 A. Yes.

12 Q. During that period of time, December 4,
13 2013, when Mr. Vaughn was placed in 3119, were
14 there any medical alerts in regards to
15 wheelchairs or walkers being prescribed?

16 A. Being prescribed to Mr. Vaughn?

17 Q. Yeah.

18 A. There may be.

19 Q. Do you know whether or not there was
20 any reasonable accommodation for Mr. Vaughn on
21 using the toilet when he was assigned to 3119?

22 MR. NICHOLS: Objection to the extent
23 the question calls for a legal conclusion.
24 You can answer.

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BY THE WITNESS:

A. I believe I have answered that reasonable accommodations were provided to Mr. Vaughn while he was on 3-South.

BY MR. MORRISSEY:

Q. What type of accommodations were provided for Mr. Vaughn when he was in 3119 as far as toileting?

A. A toilet chair.

Q. Do you know whether or not -- what type of toilet chair was used in 3119?

A. As I previously stated, I do not know the brand.

Q. Do you know whether or not the chair was in the room or in the hall or in the storage closet on 3-South?

A. With reference to what date? What time?

Q. Between December 4, 2013, and February 2, 2014?

A. It was always available to him.

Q. Could it have been in the storage closet on 3-South?

A. It's highly unlikely.

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Q. Were you working during that period of time as the ADA compliance officer?

A. No, I wasn't, but I'm here as the 30(b)(6), correct, Mr. Morrissey?

Q. Do you know whether there were any warnings on the toilet chair that was available to be brought into room 3119?

MS. CARROLL: Objection to the form of the question.

BY THE WITNESS:

A. You have asked me that question no less than 3 times now.

BY MR. MORRISSEY:

Q. I didn't ask you about the portable toilet chairs in use in 3119.

A. The portable toilet chairs are the same. They're the same and, yes, they do contain a product label.

Q. A warning or cautionary about not using it without assistance?

A. A disclaimer typical to any product label.

Q. Does the sheriff follow the cautionary or the warnings that are on the portable toilet

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chairs in providing an accommodation for prisoners that are assigned to cells like 3119 and request the toilet?

MR. NICHOLS: Objection. The question is overbroad and vague as to time frame and, also, it calls for a legal conclusion. It's beyond the scope of the notice.

MS. CARROLL: Compound.

MR. NICHOLS: I'll join in county's objection. I'm instructing my client not to answer the question.

BY MR. MORRISSEY:

Q. What accommodations were provided for Mr. Vaughn for showering when he was in 3119?

A. As I previously stated, the shower chair.

Q. Was the shower chair always in 3119?

A. As I previously stated, it was always available to him.

Q. How many shower chairs in December 2013 were on the floor of 3-South?

A. I don't know.

Q. How many wheelchair users were on 3-South in December of 2013?

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MR. NICHOLS: Objection. The question is beyond the scope of the witness' designation. I'm instructing her not to answer the question.

BY MR. MORRISSEY:

Q. Between February 12, 2014, and May 2, 2014, was Mr. Vaughn assigned to 3125, if you look at 7-B?

A. Between February 2nd and May 2nd?

Q. February 12, 2014, and May 2, 2014?

A. As this document indicates, February -- I don't know which date you're referring to.

Q. On February 12, 2014, was Mr. Vaughn housed in 3125?

A. On February 12, 2014, as this document indicates, and I believe it speaks for itself, yes.

Q. And 3-South is an isolation wing on the third floor of Cermak, correct?

A. At times, it's used for isolation.

Q. And the third floor of Cermak is classified as M-4?

A. At times, there are patients up there that are M-4s.

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Q. And what is M-4 again?

MR. NICHOLS: Objection, asked and answered.

BY THE WITNESS:

A. I believe you explained that in your record, Mr. Morrissey. It's the most ill patients usually.

BY MR. MORRISSEY:

Q. Did Mr. Vaughn have a medical alert when he was in room 3125 in regards to wheelchairs or walkers or canes?

A. He more than likely did.

Q. When Mr. Vaughn was in 3125, was it the practice of the sheriff to provide an accommodation to prisoners needing to toilet -- Strike that.

Did the sheriff provide toilet chairs without assistance to prisoners that were housed in room 3125?

MR. NICHOLS: Objection, vague as to time frame.

MR. MORRISSEY: In February of 2014.

MR. NICHOLS: You can answer the question.

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BY THE WITNESS:

A. Did the sheriff's office provide toilet chairs without assistance?

BY MR. MORRISSEY:

Q. Let me rephrase it. We talked about 3 different cells or housing units on 3-South, 3135, 3119, and 3125. For each one of them, you said that Mr. Vaughn could request a portable toilet chair as an accommodation to toileting, correct?

A. If one was not already available in his room, yes.

Q. Did the sheriff -- was it the sheriff's policy to provide those chairs without assistance to the prisoner when he or she toileted?

MR. NICHOLS: Objection. The question is vague as to time frame, vague as to location.

BY MR. MORRISSEY:

Q. Between November of 2013 and February of 2014, was it the practice as far as providing a reasonable accommodation to provide a toilet chair to the prisoner upon request without also

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providing assistance in getting on and off the toilet?

MR. NICHOLS: Objection. The question is vague as to location. I'm going to instruct my client not to answer that question as phrased. If you narrow it down to location, I'll let her answer.

BY MR. MORRISSEY:

Q. Did the sheriff between November of 2013 and February of 2014 provide portable toilet chairs to inmates without also providing assistance?

MR. NICHOLS: Same objection. The question is vague as to location.

MR. MORRISSEY: Locations are room 3135, 3119, and 3125 on 3-South during that period of time.

BY THE WITNESS:

A. They may have provided assistance. The medical staff may have provided assistance.

BY MR. MORRISSEY:

Q. Does the sheriff know whether or not his employees provide assistance or not?

MR. NICHOLS: Objection. The question

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is vague as to time frame, vague as to location --

MR. MORRISSEY: Let me rephrase it.

BY MR. MORRISSEY:

Q. Is it always the practice and policy of the sheriff back in November of 2013 when providing an accommodation for prisoners requesting a portable toilet chair to also provide assistance to get on and off the toilet?

MR. NICHOLS: Objection. The question is beyond the scope of the witness' designation. I'm instructing her not to answer that question.

BY MR. MORRISSEY:

Q. Let's talk about room 3121. I think it's 3-South, again, May 2, 2014, to May 29, 2014. Is that also a room that had a very similar combination -- toilet/sink combination which is depicted on Exhibit 5, page 6, figure 3 of Regan's report?

A. Room 3121, does it have a toilet like that?

Q. Yes.

A. No, it does not.

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Q. What type of toilet/sink combination is found in room 3121?

A. It has a similar one with grab bars.

Q. Did it have grab bars in May of 2014?

A. It more than likely did. I would have to review my records.

Q. Were there any alterations at any time by the sheriff or by the county to room 3121 to add grab bars?

A. The sheriff doesn't make alterations.

Q. Did the county -- is the sheriff aware that some additional grab bars were added to 3121 in the last 2 or 3 years?

A. They may have been.

Q. When was the last time you were in 3121?

A. A few weeks ago.

Q. Did it also have an accessible sink when you walked into it?

A. I believe it did. I would have to review my records.

Q. May 29, 2014, to July 9, 2014, the record reflects that he was assigned to room 3131 in 3-South. Have you recently been in room

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3131 in preparation for this dep?

A. In preparation for this dep, no; within the last few weeks, though, yes.

Q. Does 3131 have a combination toilet/sink which is similar to this depicted in Plaintiff's Group Exhibit 5?

A. Similar, yes.

Q. What accommodation was provided to Mr. Vaughn during that period of time to use the toilet for toileting?

A. The same accommodation that was provided in the other rooms that did not have a toilet with grab bars; that would be a toilet chair.

Q. Upon request?

A. If it's not already available in the room.

Q. Would the same thing be true about showering, that a portable shower chair would be brought in to accommodate Mr. Vaughn when he was housed in room 3131?

A. If it's not already available in the room, yes.

Q. Could the shower chair and the toilet

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chair back in May of 2014 been one in the same?

A. Possibly.

Q. If the toilet was mounted -- if the portable toilet chair was mounted on the toilet in 3131 in June of 2014, how would that chair be used in the shower?

A. I don't understand what you mean by mounted.

Q. Assuming there was a portable toilet chair in use in room 3131 when Mr. Vaughn occupied it between May 29, 2014, and July 9, 2014, who would be responsible for moving the combination toilet, slash, shower chair from the toilet into the shower?

A. If there was a toilet, slash, shower chair available, the detainee could move it themselves, or they could request assistance, and the sheriff's policy is to provide assistance.

Q. In regards to -- Mr. Vaughn was -- from September 8, 2014, to November 30, 2014, Mr. Vaughn was housed in the RTU, tier 3, cell 6, correct?

A. To which document are you referring?

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Q. If we look at Exhibit 7-B, you're going to find it under 9/8/2014.

A. Right, but I believe you just gave a different date.

Q. Pardon?

A. You gave a different date prior to that, Mr. Morrissey. You said May or something.

Q. I think it's September 8, 2014, to November 30, 2014. In any event, to your recollection, have you been in tier 3, cell 6 -- 3-A, cell 6 in preparation for the deposition?

MR. NICHOLS: Objection. The question is vague as to location.

BY MR. MORRISSEY:

Q. RTU, third tier, cell 6?

A. There's no third tier.

Q. Third floor, A tier, cell 6?

A. Tier 3-A, cell 6, yes, I've been in that cell.

Q. Is that one of the cells that was inspected in this case about a week ago?

A. I don't recall which cells were inspected, Mr. Morrissey.

Q. To your recollection, that's an

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oversized room, correct?

A. I don't know what you mean by oversized.

Q. It's larger than the other 9 cells on 3-A, correct?

A. I haven't measured it, but it appears to be larger.

Q. I'll show you what's been marked as 13-A. It's Group Exhibit 1 through 5.

MR. NICHOLS: I'll have a standing objection to this exhibit. It was not produced or disclosed to me or my client or the county prior to this deposition.

MR. MORRISSEY: It's fresh off the printer. They just came in yesterday. If you were prompt with your discovery production, we would be very happy.

MR. NICHOLS: I have to preserve the record. I haven't seen this until today. I have to make that clear.

MR. MORRISSEY: We don't get these things from you.

MR. NICHOLS: I'm just saying, I have to make my record.

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BY MR. MORRISSEY:

Q. Looking at 13-A which is Group Exhibit 1 through 5, do those appear to be photographs of cell 6?

A. I don't know which cell they're photographs of, Mr. Morrissey.

Q. On the front page, on page 1, there's a number 6-A, correct? Does that indicate that's cell 6?

A. I don't know what that indicates. Usually that's a security number for buzzing or releasing of door. I'm not sure it indicates the cell number.

Q. So this doesn't refresh your memory about -- you mentioned that you believe that it was one of the larger cells on 3-A, correct?

A. I stated that it appears to be larger, yes.

Q. And did it have -- to your knowledge, did 6-A have grab bars around the toilet?

A. There's no cell 6-A.

Q. Cell 6 in tier A, does it have grab bars?

A. There's no tier A. There's 3-A.

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Q. On the third floor in a tier, cell 6, inside of cell 6, are there grab bars?

A. On 3-A, cell 6, there are no grab bars.

Q. And Mr. Vaughn was assigned to that cell from September 8, 2014, to November 30, 2014, correct?

A. I see that he was assigned there September 8, 2014. I don't know where you're pulling the November 30th date from.

Q. What accommodations with toileting were provided to Mr. Vaughn when he was in cell 6?

A. As I previously stated, at times, a toilet chair was available; if not, they were granted permission to come out into the dayroom and use the dayroom toilet.

Q. There are periods of time when prisoners on tier 3-A are locked down, correct?

MR. NICHOLS: Objection to the extent that the question is beyond the scope of the designation. However, I will allow you to answer the question.

BY THE WITNESS:

A. Yes, in the jail, there are times when prisoners are locked down.

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BY MR. MORRISSEY:

Q. In order to request to use the dayroom toilet, what would Mr. Vaughn have had to do?

A. He would have had to ask.

Q. Do you know if able-bodied prisoners that are assigned to 3-A have to ask permission to use the toilet?

A. To use the dayroom toilet, yes.

Q. To use the toilet inside their cell?

A. No one has to ask permission to use the toilet in their cell.

Q. Between November 30, 2014, and December 10, 2014, Mr. Vaughn was assigned to cell -- going back to when he was assigned to 3-A, 6, did Mr. Vaughn have a medical alert in regards to wheelchairs or a walker?

A. Potentially. I would have to review my records.

Q. From November 30, 2014, to December 10, 2014, was Mr. Vaughn assigned to Division 8, tier 3-A, 7, cell 7?

A. He was.

Q. And cell 7 does not have grab bars around the toilet, correct?

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MR. NICHOLS: Asked and answered. We already discussed this in relation to Flora who was also in the same cell.

MR. MORRISSEY: It's probably a different time. The sheriff might have been prompt. They might have done the right thing because they got a bunch of grievances about this. So a conscientious public servant would probably do the right thing and put grab bars on. So that's why I think it's appropriate to ask about this time period.

THE WITNESS: You're so inappropriate, Mr. Morrissey. The sheriff does not remodel facilities, and you know that. And if you would like to make a record on your personal opinion, that's fine, but you're just wasting everyone's time.

BY MR. MORRISSEY:

Q. Again, at that time on November 30, 2014, were there grab bars in cell 7 around the toilet?

A. No.

Q. On December 10, 2014, to February 10,

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2015, was Mr. Vaughn assigned to cell 9 in the RTU, tier 3-A?

A. It appears he was.

Q. And I believe we have pictures. Showing you what's been marked as 13-B, it's Group Exhibit 1 through 5. I'll ask you to look at the last page on Group Exhibit 13-B. Does that appear to be the doorway to cell 9 in tier 3-E?

A. I don't know, Mr. Morrissey. That 9 is not part of the photo. You stamped that on there.

Q. Looking at Group Exhibit 13-B, does it appear that on photograph 1, that fairly and accurately depicts the type of sink and toilet that exists in cell number 9?

A. Possibly.

Q. And cell number 9 on tier 3-A doesn't have grab bars around the toilet, correct?

A. It does not.

Q. And for Mr. Vaughn, again, to use the toilet, to seek an accommodation, he would have to request a portable toilet chair to be brought into the room or to use the dayroom toilet,

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correct?

A. If Mr. Vaughn needed such an accommodation, yes, one would be provided.

Q. Upon request?

A. If not already available, yes.

Q. And do you know whether or not Mr. Vaughn had a medical alert at that time period?

A. I believe I answered that question.

Q. I'm asking at that time period, December of 2014 to February of 2015.

A. Possibly.

Q. And that medical alert could include a prescription for a wheelchair?

A. It could include that.

Q. Going forward, May 13, 2015, to September 17, 2015, the record reflects that he was in tier 3-E, cell number 9. Do you see that document?

A. Which document are you referring to?

Q. On the housing record.

A. Which exhibit, Mr. Morrissey?

Q. I think it's Exhibit A or B of 7. Do you see on Exhibit 7-A, we have Mr. Vaughn being

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assigned on May 13, 2015, to cell E on tier 3-E -- I'm sorry -- tier 9 on cell -- on tier 3-E?

A. Tier 9 on tier 3-E, no. Cell 9 on tier 3-E, bed 1, yes.

Q. And does 3-E, cell 9, have an accessible toilet with grab bars around it?

MR. NICHOLS: Objection to the extent the question calls for a legal conclusion. You can answer.

MR. MORRISSEY: It's not a legal conclusion. It's a factual --

MR. NICHOLS: The word accessible is a term of art.

BY MR. MORRISSEY:

Q. Does it have grab bars around the toilet in cell number 9?

A. Does it have grab bars? No.

Q. What accommodation was provided for Mr. Vaughn when he was assigned to cell 9, tier E for toileting?

A. The same accommodation that was provided in the other cells; a toilet chair if needed; he may come out to the dayroom to use

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the toilet, if needed, but Mr. Vaughn can use the toilet in his cell.

Q. Who decides whether or not Mr. Vaughn is allowed to use the dayroom toilet?

A. It's a policy to allow them to come out.

Q. Do you know whether or not in the fall of 2015, whether there was a medical alert for Mr. Vaughn to be given -- prescribed a wheelchair or a walker?

A. Possibly.

Q. During any time of Mr. Vaughn's incarceration at the jail from 2014 to the present, has there always been medical alerts for Mr. Vaughn?

A. Possibly.

Q. And during that entire period of time that he's been incarcerated at the jail, have there been medical alerts allowing him to either have a wheelchair or a walker prescribed for him?

A. During the entire time, I do not know.

Q. Is there any procedure in the sheriff's office to challenge Cermak's determination that

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a prisoner has been prescribed a wheelchair by Cermak?

MR. NICHOLS: Objection. The question is beyond the scope of the witness' designation. I'm instructing her not to answer that question.

MR. MORRISSEY: We'll take a few moments.

(Whereupon, a short break was taken.)

BY MR. MORRISSEY:

Q. As the ADA coordinator -- we have gone through in this deposition various housing assignments for Mr. Flora while he was incarcerated at the jail. Has the sheriff received any grievances from Mr. Flora or other detainees assigned to those same housing units that the housing units did not provide accommodation for toileting?

MR. NICHOLS: Objection. The question is beyond the scope of the witness' designation. I'm instructing her not to answer that question.

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BY MR. MORRISSEY:

Q. During the time that Mr. Flora was incarcerated in those various housing cells, were there any alterations done of those cells that we went through to make them accessible for disabled detainees?

MR. NICHOLS: Objection. The question is vague as to location. However, you can answer to the extent that you know.

BY THE WITNESS:

A. To the extent that I know, renovations were made. I don't know exact dates. You would have to ask the county that. They would be best to answer that question.

BY MR. MORRISSEY:

Q. In regards to the RTU, in the RTU cells where Mr. Flora and Mr. Vaughn have been housed, have there been any alterations to those cells to make them accessible for disabled detainees to toilet?

MR. NICHOLS: Objection to the extent the question calls for a legal conclusion. You can answer the question.

MR. CONDRON: I'll join.

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BY THE WITNESS:

A. Which cell are you referring to?

BY MR. MORRISSEY:

Q. I'm referring to the cells that we went through for Mr. Flora and Mr. Vaughn in the RTU. Have any of those cells in the RTU been renovated or altered to make those cells accessible for disabled detainees in their toileting needs?

MR. NICHOLS: Same objection. You can answer.

BY THE WITNESS:

A. Some of the cells were already accessible for Mr. Vaughn and Mr. Flora. I don't know if any alterations were made during that time period. You should ask the county that.

BY MR. MORRISSEY:

Q. Does the sheriff maintain a list of cells or living units that can appropriately accommodate individuals with disabilities?

A. The sheriff's office does, yes.

Q. Who maintains that list?

A. The receiving classification unit; I

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do.

Q. Is that list published? Is it made available to members of the sheriff's office?

A. Is it published, or is it made available?

Q. Is it made available to employees of the sheriff?

A. Of course.

Q. Is it made available to members of the Cermak medical staff?

A. Absolutely. That's not the list to which I'm referring, just so you know. I believe the other list has also been turned over.

MR. MORRISSEY: Let's take a moment.

(Whereupon, a short break was taken.)

MR. MORRISSEY: Back on the record. It's my understanding -- we had a conversation off the record. It's my understanding that there's a list of cells and living units that the sheriff believes can accommodate individuals with disabilities -- with qualified disabilities.

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We have not been tendered that document in discovery in either the Flora or the Vaughn case. And part of the 30(b)(6) notices in both cases involve questions in regards to that list. So we're going to ask to continue the deposition pending the production of that document.

MR. NICHOLS: And in response to that, Sheriff Dart objects to continuing this deposition. We have already been here for several hours. Sheriff Dart agrees to produce the document in short order after this deposition is concluded.

MR. MORRISSEY: Prior to Mr. Burke's deposition tomorrow?

THE WITNESS: I can tell you what cells they are.

MR. MORRISSEY: That's not the issue. The issue is we're entitled to that document.

THE WITNESS: You don't want to know what they are?

MR. CONDRON: I guess we join in the objection. We had an inspection that the

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witness was involved in last week, and I think we basically provided the same information that she would intend to provide to you off of this list.

MR. MORRISSEY: We didn't inspect -- for instance, we were going -- we agreed that Mr. Gum who works for the county was going to do some inspection and photographs of Cermak --

MR. CONDRON: We're attempting to create that. I haven't gotten confirmation that --

MR. MORRISSEY: Well, given that Mr. Gum and the county was going to agree to that, we have agreed to put off the inspection of Cermak pending the production by Mr. Gum and the county of those pictures.

MR. CONDRON: Again, I'm hopeful --

MR. MORRISSEY: We're reserving our right to -- obviously, when we go to trial, we want to have pictures of these living units in 3-South and 3-North where our clients were housed and what the ADA coordinator says is noncompliant housing, so

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we need those photographs.

MR. NICHOLS: Tom, I think you're mischaracterizing her testimony.

MR. MORRISSEY: We would like to have this list prior to -- an hour before we proceed with Mr. Burke's dep tomorrow.

MR. NICHOLS: Mr. Burke is not designated to respond to those questions, anyway. I would request respectfully that you go ahead and ask Ms. Rivero-Canchola about the various cells --

MR. MORRISSEY: What's the problem giving us the document?

MR. NICHOLS: The problem is that we're sitting at your office at approximately 6:30. I don't have access to anything.

MR. MORRISSEY: Well, tomorrow morning you'll be at your office, and you can produce it.

MR. NICHOLS: And if I do produce it, it's not for the purpose of you asking Matt Burke any questions about it because he wasn't designated to respond to that topic.

MR. MORRISSEY: So then we're going to

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have to have this person come back to --

MR. NICHOLS: You can continue the deposition which we object to or you can just proceed to ask her about the cells that are on the list.

MR. MORRISSEY: We're entitled to the document, and discovery is going to close tomorrow. So that's why we're entitled to it tomorrow. We don't want to have to go in after discovery closes and request the document.

MR. NICHOLS: I don't disagree you're entitled to the document.

MR. MORRISSEY: We're also entitled to ask the 30(b)(6) representative about that document.

MR. NICHOLS: You're only entitled to ask a 30(b)(6) representative about documents for which they have been designated to respond to.

BY MR. MORRISSEY:

Q. What purpose does the sheriff maintain a list of cells or living units that are appropriate to accommodate individuals with

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qualified disabilities?

MR. CONDRON: Objection, vague, but you can answer if you understand.

BY THE WITNESS:

A. To comply with the ADA would be the purpose, Mr. Morrissey.

BY MR. MORRISSEY:

Q. What is the list called?

A. It's not a list. It's designations within the Cook County offender management system of which cells are accessible, and we could put that in a list form for you as we have in the past and turned over numerous times, and I'm prepared to answer any question about any accessible cell within RTU.

Q. You say that the designated accessible cells are in the jail management system, that there's some entry in the jail management system that has these designated accessible cells at the jail, correct?

A. In the Cook County offender management system.

Q. For what purpose -- who created -- who entered this information in the Cook County

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Sheriff's jail management system?

A. I don't know, Mr. Morrissey, whoever created the system potentially.

Q. Is this system under the control of the Cook County Sheriff?

A. It is.

Q. Is it under the control of the Cook County government, namely, the Cermak providers at the jail?

MR. CONDRON: Objection, calls for speculation.

MR. NICHOLS: I'll join. I'm actually going to instruct my client not to answer that question.

MR. MORRISSEY: Why?

MR. NICHOLS: Because she doesn't work for Cermak.

BY MR. MORRISSEY:

Q. Do you know whether or not Cermak has access to the information that's in the sheriff's jail management system in regards to accessible housing units?

A. Cermak has access to the Cook County offender management system.

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Q. For what purpose is this information maintained in your jail management system?

MR. NICHOLS: Objection, asked and answered.

BY THE WITNESS:

A. The purpose of complying with the ADA.

BY MR. MORRISSEY:

Q. What rooms or cells or divisions are designated as living units that can appropriately accommodate individuals with qualified disabilities?

A. What kind of disabilities?

Q. Qualified disabilities.

A. What kind of qualified disabilities?

Q. The question is, people that have mobility limitations.

A. People with mobility limitations could be across the compound.

Q. What cells or housing units or living units are contained in the jail management system where inmates with disabilities can be accommodated?

A. All of them. All of them are in the jail management system, also known as the Cook

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County offender management system.

Q. Is it broken down in regards to different types of disabilities so that, for instance, are there certain divisions where individuals with hearing loss are housed?

MR. NICHOLS: Objection to the extent the question is well beyond the scope of either of these cases.

MR. MORRISSEY: I can ask these questions. I don't have the document. So I don't know why you're objecting --

MR. NICHOLS: I don't understand why you're asking about hearing disabilities.

MR. MORRISSEY: I'm just trying to get to straight answers --

MR. NICHOLS: We object to the extent that you're asking questions -- you're trying to use this deposition to get other information about other cases you may be litigating, and that's not going to happen. Neither Vaughn or Flora are deaf. They don't allege that they're deaf --

MR. MORRISSEY: They have mobility limitations.

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BY MR. MORRISSEY:

Q. So what housing units, cells, or living units are designated in this jail management system for people with mobility limitations?

A. I don't know what you mean by mobility limitations.

Q. Then we're going to continue the deposition because you're being evasive.

A. I'm not being evasive. That term doesn't exist within the ADA, Mr. Morrissey. If you want to ask me about wheelchairbound detainees, that's a different question.

Q. Individuals that are -- I'll define it further. Individuals that have a prescription for a wheelchair, a walker, or a cane by the Cermak medical providers, what cells, divisions, living units are listed in your jail management system for those people to accommodate them?

A. There are different types of prescriptions for wheelchairs, walkers, and canes. So I can't answer that question unless you specify what information exactly you're seeking.

Q. A permanent wheelchair like

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Mr. Vaughn --

A. Mr. Vaughn is not a permanent wheelchair user.

Q. You indicated that you had some knowledge that Mr. Vaughn had a prescription for a wheelchair over the last couple years, correct?

A. I did indicate that, for wheelchair using, yes.

Q. What are the variations as far as prescriptions in your system for wheelchairs?

MR. NICHOLS: Can we go off the record?

I'm going to allow her to answer the

question. Let's go off the record, though.

(Whereupon, a discussion was had off the record.)

BY MR. MORRISSEY:

Q. If a person is considered by the medical staff to require a permanent wheelchair, what housing units, living units, cells are listed -- indicated in the jail management system for such a person?

A. Which housing units or which cells or which --

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Q. Let's start with housing units. If a person has a prescription for a permanent wheelchair, what housing units?

A. They could potentially be placed in RTU. They could potentially be placed in Cermak. They could potentially be placed in Division 2, dorm 2.

Q. In dorm 2 -- in Division 2, dorm 2, are there 2 tiers where people who have a prescription for a wheelchair could be placed?

A. Potentially, yes.

Q. And that would be tier M and N?

A. That would be M house and N house, yes.

Q. What is the capacity in M house?

MR. NICHOLS: Objection. The question is beyond the scope of the witness' designation. I'm instructing her not to answer.

BY MR. MORRISSEY:

Q. Does the jail management system indicate the capacity of the M tier?

MR. NICHOLS: Objection. The question is beyond the scope of the designation. I'm instructing my client not to answer that

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question.

BY MR. MORRISSEY:

Q. How many cells or living units are in dorm M in Division 2 that can accommodate a person who's been prescribed a wheelchair?

A. How many cells or living units?
One, there's one living unit.

Q. There's one dorm. How many beds are there in dorm M?

A. I don't know, many.

Q. Many? More than 30?

A. Potentially.

Q. More than 45?

A. I don't know.

Q. Are all those beds in division M appropriate to house a prisoner who has a prescription for a wheelchair?

MR. NICHOLS: Objection. The question is beyond the scope of the witness' designation. I'm instructing her not to answer.

MR. MORRISSEY: The designation asks what cells or living units that can be an appropriate accommodation for individuals

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with qualified disabilities.

MR. NICHOLS: It specifically says a list of cells or living units. That's what the notice actually says, Tom.

MR. MORRISSEY: If you want to be -- I'm asking her how many of those beds in dorm M -- or tier M of Division 2 can accommodate wheelchair people with prescriptions.

MR. NICHOLS: You can answer the question.

BY THE WITNESS:

A. Depending on the type of prescription, potentially all.

BY MR. MORRISSEY:

Q. What type of prescriptions are there for wheelchairs?

MR. NICHOLS: Objection. The question is beyond the scope of the witness' designation.

BY MR. MORRISSEY:

Q. How many cells in the N tier in Division 2, dorm 2, are there that can accommodate individuals that have a prescription

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for a wheelchair?

A. There are no cells.

Q. How many beds in the N tier are there that can accommodate prisoners that have a prescription for a wheelchair?

A. Depending on the type of prescription, potentially all of them.

Q. In Cermak in 2014, how many beds were there on the third floor of Cermak that could accommodate a person with a prescription for a permanent wheelchair?

A. In Cermak?

Q. Yes.

A. What area of Cermak?

Q. Third floor.

A. There's 6 rooms, group rooms, and single cell rooms.

Q. What rooms are there? What are the rooms?

MR. CONDRON: Objection as to time frame.

BY MR. MORRISSEY:

Q. In 2014 -- before August of 2014, how many rooms in Cermak were there that could

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accommodate prisoners with a wheelchair prescription?

MR. NICHOLS: Objection to time frame.

It's overbroad. So I'm going to object to the question as phrased and --

BY MR. MORRISSEY:

Q. Prior to August of 2014, from -- I'll give you a time period. From July of 2012 to August of 2014, how many rooms in Cermak could accommodate prisoners with a wheelchair prescription?

A. I would have to review my records. I don't know when the construction was done.

Q. What records would you review to determine -- what construction are you referring to?

A. Construction that's been done within Cermak at various times to upgrade the facility.

Q. When was the construction done?

A. On different dates.

Q. Was it done between July of 2012 and August of 2014?

A. Potentially, and I believe Ms. Kunz already went over this with you.

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Q. How many rooms in the RTU currently can accommodate prisoners with a prescription for a wheelchair?

MR. NICHOLS: The question is a little vague as to location. However, I'm going to allow my client to answer that question.

BY THE WITNESS:

A. How many rooms?

BY MR. MORRISSEY:

Q. Yes.

A. I don't know what you mean by rooms.

Q. How many living units in the new RTU can accommodate prisoners that have a prescription for a wheelchair?

MR. NICHOLS: Same objection. It's vague as to location. However, I'm going to allow my client to answer the question.

BY THE WITNESS:

A. Again, depending on the type of wheelchair or wheelchair prescription, potentially all of them, but as we have already discussed, there are 2 cell blocks on RTU -- on RTU third floor. There's 1 accessible holding cell in each cell block, and there are 2

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accessible beds on each dorm, information which you have already been provided.

BY MR. MORRISSEY:

Q. Other than that on the third floor of the RTU, are there any other accessible cells or living units for a prisoner that's been prescribed a wheelchair?

MR. NICHOLS: Objection only to the extent that it exceeds the scope of the notice. Both Vaughn and Flora were housed on the third floor. As phrased, I'm going to instruct my client not to answer that question.

MR. MORRISSEY: It was limited to the third floor of Cermak.

MR. NICHOLS: Provided that limitation, you can answer.

BY THE WITNESS:

A. We weren't talking about Cermak. We were talking about the RTU.

BY MR. MORRISSEY:

Q. I'm sorry. I'm sorry. I'm referring to the RTU, third floor of the RTU. Are there any other cells or dorms on the third floor of

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Cermak that can accommodate a prisoner that's been prescribed a wheelchair?

A. Potentially.

Q. Which ones are those? Is that in your computer? Is that in the jail management system, other cells -- other than the -- the cells that are in -- cell 10 and the segregation and the protective custody units and the dorms, the 2 earmarked beds in each of the dorms on the third floor of the RTU, are there any other areas on the third floor of the RTU that are listed or contained in the jail management system as appropriate to accommodate individuals who have been prescribed a wheelchair?

MR. NICHOLS: Objection to the form of the question. It's quite a compound question. However, you can answer the question.

BY THE WITNESS:

A. I don't know which part I would be answering, Mr. Morrissey.

BY MR. MORRISSEY:

Q. You testified in the RTU on the third floor that there are 2 cell blocks, right? Each

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cell block has one accessible room, correct?

A. One accessible cell, yes.

Q. And you also testified that there are dorms on the third floor of the RTU, correct?

A. Correct.

Q. Each dorm has 2 beds that are accessible, correct?

A. Correct.

Q. Other than that on the third floor of the RTU, are there any other areas where individuals with a prescribed wheelchair can be accommodated?

A. Areas? Yes.

Q. Cells or living units?

A. Those are all the living units. We went over all of them. There are no more.

Q. On your list, you said that you have a list which we haven't been given --

A. You have been given that.

Q. -- are there any other -- well, your lawyers have confirmed that we don't have the document.

MR. NICHOLS: In this case -- in these cases.

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BY MR. MORRISSEY:

Q. So on this jail management system, other than what you have testified before, are there any other cells or living units on the third floor of the RTU which can accommodate individuals who have been prescribed a wheelchair?

A. Potentially depending on the type of prescription, yes.

Q. What other cells or living units are listed or contained in the jail management system which can accommodate individuals who have been prescribed a wheelchair?

A. They're all listed in the jail management system.

Q. Every cell on the third floor of the RTU is listed as being appropriate for accommodating an individual who has been prescribed a wheelchair, correct?

A. Depending on the type of prescription, yes.

MR. NICHOLS: Objection, misstates the testimony.

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BY MR. MORRISSEY:

Q. What types of prescriptions are there for wheelchairs?

A. There's long distance, and there's routine.

Q. So if a person -- what is a routine wheelchair?

A. It means the inmate in most circumstances is allowed to keep that chair on the tier.

Q. Would Vaughn fall into that category of routine wheelchair? Was he able to keep that wheelchair in his cell?

A. He's allowed to keep it in his cell, yes.

Q. So he's classified as routine. The other prescription is long distance?

A. Yes.

Q. What is a long distance wheelchair?

A. Long distance is a transportation alert which means this person may have trouble walking long distances, so the accommodation is the wheelchair for long distances.

Q. And that's a medical alert by Cermak?

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MR. NICHOLS: Objection to the extent that these questions are beyond the scope of the witness' designation. However, I will allow her to answer this one question. And objection to the extent that it calls for speculation.

BY THE WITNESS:

A. It's a medical alert, yes.

BY MR. MORRISSEY:

Q. So if Vaughn is currently in cell 7 and has a medical alert for a routine wheelchair, cell 7 is an appropriate accommodation for Mr. Vaughn?

MR. NICHOLS: Objection to the extent the question calls for a legal conclusion. You can answer the question.

BY THE WITNESS:

A. I believe that cell is an appropriate accommodation for Mr. Vaughn, yes.

BY MR. MORRISSEY:

Q. And the other cells and living cell -- do you consult with medical -- Strike that.

Does the sheriff consult with medical when they assign somebody like Mr. Vaughn who

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has a prescription for a routine wheelchair as far as where he's actually placed in the RTU?

MR. NICHOLS: Objection. The question is beyond the scope --

MR. MORRISSEY: Let me rephrase it.

MR. CONDRON: I'll join.

MR. MORRISSEY: Let me rephrase it.

BY MR. MORRISSEY:

Q. We have gone through the various placements for Mr. Vaughn from November 16, 2013, to the present, correct?

A. Yes.

Q. He's been placed in 3135, 3119, 3125, all on 3-South, correct? And I might add, 3121.

A. He's been placed on 3121, yes, 3105, 3133, 3125, as the document you produced states.

Q. Assuming that Mr. Vaughn had a prescription for a routine wheelchair, that was -- those living cells on 3-South were appropriate accommodations for Mr. Vaughn?

MR. NICHOLS: Objection to the extent the question calls for a legal conclusion. You can answer.

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BY THE WITNESS:

A. Those cells are appropriate for Mr. Vaughn.

BY MR. MORRISSEY:

Q. Those cells that Mr. Vaughn was assigned to on 3-South are appropriate cells for individuals who have a prescription for a routine wheelchair?

MR. NICHOLS: Objection. The question is overbroad and vague as to time frame. As phrased, I'm instructing my client not to answer that question.

BY MR. MORRISSEY:

Q. In regards to the RTU, for a person that has a routine wheelchair prescription, you testified that Vaughn at times in the RTU was in cell 7; in 3-A, he was in cell 9; in 3-E, he was in cell 9; in 3-E, he was in cell 7. Are all those cells appropriate accommodations under the ADA for a person that has a prescription for a routine wheelchair?

MR. NICHOLS: Objection. As phrased, the question was overbroad and vague as to who you're actually talking about. I'm

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going to instruct my client not to answer as phrased. If you're talking about Harold Vaughn, I'll let her answer.

MR. MORRISSEY: Number 2 in the notice provides the physical features including but not limited to any fixed or immovable accommodation provided to assist disabled detainees at sinks, toilets, and showers in each cell located in the residential treatment unit. It is not limited to Mr. Vaughn. I'm asking her --

MR. NICHOLS: That's fine, but the notice is captioned Harold Vaughn, and we objected to the fact that these questions are overbroad.

MR. MORRISSEY: The court required you to produce her and required her to respond to these questions.

MR. NICHOLS: We maintain those objections.

MR. MORRISSEY: You can maintain the objection, but the question is, for the --

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BY MR. MORRISSEY:

Q. Other than the 2 cells in -- other than cell 10 in tier 3-A and cell 10 in 3-E, are the other tiers in 3-A and 3-E appropriate placement for individuals who have a prescription by medical staff at Cermak for a routine wheelchair?

MR. NICHOLS: Objection. The question is definitely calculated to seek a legal conclusion. It's beyond the scope of the witness' designation. As phrased, I'm going to instruct my client not to answer. However, if you want to narrow it down to Harold Vaughn or Donnell Flora --

MR. MORRISSEY: No. The notice provides --

MR. NICHOLS: The notices are also captioned Harold Vaughn and Donnell Flora.

MR. MORRISSEY: It doesn't make any difference. The notice -- the fact that -- the caption of the case -- the notice was pretty broad. It said what area in the RTU can accommodate people who have

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disabilities, and that's what I'm asking. I'm asking in regards to --

BY MR. MORRISSEY:

Q. Other than cell 10 in tiers 3-A and 3-E, are the other cells, cells 1 through 9, in tier 3-A and cells 1 through 9 in tier E, are they appropriate to accommodate people that have a wheelchair prescription for routine matters by Cermak?

MR. NICHOLS: Objection. The question is calling for a legal conclusion. So as phrased, I'm instructing my client not to answer. It's too broad.

MR. MORRISSEY: We'll go through it one by one then.

BY MR. MORRISSEY:

Q. In 3-A, cell number 1, is that a cell that's in the jail management system that's considered appropriate to accommodate a person with a routine prescription from Cermak to accommodate their disabilities?

A. Potentially that's a fact-specific inquiry and would depend on the detainee.

Q. Cermak is the one that makes a factual

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determination that the prisoner has a prescription for a routine wheelchair. Let's establish that, okay? So the question then is, can the sheriff use cell 1 in 3-A to accommodate a person who has a prescription from the medical staff, a routine prescription from the medical staff for a wheelchair?

MR. NICHOLS: Objection. The question calls for a legal conclusion. It's overbroad. As phrased, I'm instructing my client not to answer that, especially since neither Harold Vaughn or Donnell Flora were in the cell you're talking about.

BY MR. MORRISSEY:

Q. Does the medical staff inform the sheriff when they -- why they issue a prescription for a routine wheelchair?

MR. NICHOLS: Objection. The question is beyond the scope of the witness' designation. I'm instructing her not to answer that question.

BY MR. MORRISSEY:

Q. Is it up to the sheriff's office to decide whether to place a prisoner such as

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Mr. Vaughn in an accessible cell such as cell number 10, 3-A, or not?

MR. NICHOLS: Objection. That question is beyond the scope of the witness' designation. That specific question appears more appropriate under item 3 of your notice.

MR. MORRISSEY: We'll take a break.

(Whereupon, a short break was taken.)

MR. MORRISSEY: The parties have conferred off the record and because there's some documents that haven't been produced as of yet, the parties have agreed to continue the deposition. The deponent will come back to our office on or before July 12 to continue the dep.

MR. NICHOLS: And just so the record is clear, the deponent offered to provide testimony to the document. However, it was deemed inadequate. Sheriff Dart will be producing the information referred to promptly so that this deposition can be continued at a later date on or before

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July 12, 2016.

MR. MORRISSEY: All right. Thanks.

(Whereupon, the deposition was continued.)

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IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

HAROLD VAUGHN,)
Plaintiff,)
vs.) No. 15-cv-951

THOMAS DART, SHERIFF OF)
COOK COUNTY, and COOK)
COUNTY, ILLINOIS,)

Defendants.)
DONNELL FLORA,)
Plaintiff,)

vs.) No. 15-cv-1127
THOMAS DART, SHERIFF OF)
COOK COUNTY, and COOK)
COUNTY, ILLINOIS,)
Defendants.)

I, SABRINA RIVERO-CANCHOLA, being first duly sworn, on oath say that I am the deponent in the aforesaid deposition taken on the 29th day of June 2016; that I have read the foregoing transcript of my deposition, consisting of pages 1 through 198 inclusive, and affix my signature to same.

SABRINA RIVERO-CANCHOLA

Subscribed and sworn to
before me this day
of , 2016.

Notary Public

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STATE OF ILLINOIS)
) SS.
COUNTY OF C O O K)

I, EMILY TOMALA, CSR, a notary public within and for the County of Cook County and State of Illinois, do hereby certify that heretofore, to-wit, on the 29th day of June, 2016, SABRINA RIVERO-CANCHOLA personally appeared before me in a cause now pending and undetermined in the Circuit Court of Cook County, Illinois.

I further certify that the said SABRINA RIVERO-CANCHOLA was first duly sworn to testify the truth, the whole truth and nothing but the truth in the cause aforesaid; that the testimony then given by said witness was reported stenographically by me in the presence of the said witness, and afterwards reduced to typewriting by Computer-Aided Transcription, and the foregoing is a true and correct transcript of the testimony so given by said witness as aforesaid.

I further certify that the signature to the foregoing deposition was reserved by counsel

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for the respective parties.

I further certify that I am not counsel for nor in any way related to the parties to this suit, nor am I in any way interested in the outcome thereof.

IN TESTIMONY WHEREOF: I have hereunto set my hand and affixed my notarial seal this 11th day of July, 2016.

Emily Tomala

EMILY TOMALA, CSR



LIC. NO. 084003736

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Transcript of the Testimony of
MATTHEW BURKE

Date: September 23, 2016

Case: VAUGHN VS. DART, ET AL.

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* * * * *

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IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

HAROLD VAUGHN,)
)
Plaintiff,)
)
vs.) No. 15-cv-00951
)
THOMAS DART, Sheriff of Cook) Part 3
County, and COOK COUNTY,)
ILLINOIS,)
)
Defendants.)
-----)
DONNELL FLORA,)
)
Plaintiff,)
)
vs.) No. 15-cv-1127
)
THOMAS DART, Sheriff of Cook)
County, and COOK COUNTY,)
ILLINOIS,)
)
Defendants.)

The continued deposition of MATTHEW BURKE, before the HONORABLE JUDGE MATTHEW KENNELLY, called by the Plaintiffs for examination, taken pursuant to notice and pursuant to the Federal Rules of Civil Procedure for the United States District Courts pertaining to the taking of depositions, taken before Shelley M. Bostetter, Certified Shorthand Reporter and Notary Public, at 219 South Dearborn Street, Suite 2188, Chicago, Illinois, commencing at 9:30 a.m. on the 23rd day of September, A.D., 2016.

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(Witness sworn.)

MR. MORRISSEY: The deponent has already been sworn in, your Honor.

THE COURT: Okay.
WHEREUPON:

MATTHEW BURKE,
called as a witness herein, having been first duly sworn,
was examined and testified as follows:

DIRECT EXAMINATION

BY MR. MORRISSEY:

Q. State your full name, please.

A. Matthew Burke, B U R K E.

Q. Mr. Burke, since your -- This deposition was continued from August 4th, 2016. Since that date, have you reviewed any documents regarding accessibility at the jail?

A. I mean, I've reviewed the May 2012 letter from the disability rights section again. I reviewed the implementation plan. That's what I can think of off the top of my head.

Q. Have you -- Other than reviewing the May 10th, 2012 letter and the implementation plan that came about after the DOJ's letter, have you done any additional investigation in regards to accessibility at the jail?

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A. I'm sorry. That's a big question. What do you mean by "investigation"?

Q. Well, have you talked to anybody since August 4th, 2016 in regards to accessibility between 2012 and the present time for wheelchair users?

A. Sabrina is in my office, so I've spoken to her in general about things.

Q. And her last name again is?

A. Rivera-Controlllo (phonetic).

Q. And she's your ADA coordinator?

A. Yes.

Q. And she works for you?

A. In my office. Yes.

Q. Anybody else that you've spoken to?

A. I spoke to AED or -- I'm sorry -- assistant executive director Jeff Johnson.

Q. What was the nature of your conversation with Sabrina, the ADA -- Sabrina Rivera?

A. I wanted to get clarification on the bed audits that she does.

Q. And what was the nature of your conversation with Jeff Johnson, the assistant executive director?

A. I wanted to get a better understanding of the classification process in RTU.

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Q. I'm going to ask you -- The RTU stands for what, residential treatment unit?

A. Yes.

Q. And is it true that on August 21st, 2014, approximately 88 wheelchair users were transferred from other parts of the jail to the RTU?

A. I know that Cermak provided a list of AD detainees that were to be transferred. I'm not certain whether all of them were wheelchair users or just had mobility impairments or other medical issues.

Q. But as of August 21st, 2014, the sheriff began using the RTU to house wheelchair users?

A. Correct.

Q. And now I want to ask you questions prior to August 21st, 2014 in regards to wheelchair users, in particular the third floor of Cermak.

MR. NICHOLS: Objection. The question is beyond the scope. The witness was not designated to discuss Cermak.

THE COURT: What's the question again, Mr. Morrissey?

MR. MORRISSEY: The question is --

THE COURT: I'm just going to rule on the objections. That's the easiest way to do it.

MR. MORRISSEY: Sure. The question --

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Can you read back the question for the Court?

(Record read as requested.)

THE COURT: So which of the topics does that relate to, Mr. Morrissey?

MR. MORRISSEY: It relates to in our agreement, your Honor --

THE COURT: The agreement is the thing in the letter?

MR. MORRISSEY: Yeah. The letter. Does the Court have the letter?

THE COURT: It's the May 6th letter?

MR. MORRISSEY: Yeah. It says after the justice department wrote their letter on May --

THE COURT: I'm looking at the wrong letter.

MR. MORRISSEY: -- May 10th, 2012. The sheriff's conduct in regards to placing disabled inappropriate housing after 2010 to the present. It's on the second page of the letter, Paragraph 4D.

THE COURT: That's fine. Got it. Thank you. I'm sorry for being so slow here. Sheriff's conduct re: placing disabled inappropriate housing cells after 2010 to the present. Okay.

The objection is overruled.

So do you have the question in mind?

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MR. MORRISSEY: I do.

THE COURT: Just ask it again.

MR. MORRISSEY: Sure.

BY MR. MORRISSEY:

Q. Did the sheriff place wheelchair users on the third floor of Cermak in the year 2014?

A. There were wheelchair-bound detainees on the third floor of Cermak. Yes.

Q. What did the sheriff do to provide wheelchair users assigned to the third floor of Cermak with accessible toilets and sinks in the year 2014?

MR. NICHOLS: Objection, only to the extent that the question exceeds the witness' designation.

THE COURT: Overruled.

BY THE WITNESS:

A. In 2014, the room assignments would have been made by Cermak Health Services, and so the sheriff's office would follow those referrals and place detainees where Cermak had designated them to be housed.

Q. So is it your position that in the year 2014, the sheriff had no role in where wheelchair users were housed on the third floor of Cermak?

MR. NICHOLS: Objection, only to the extent that the question misstates the witness' previous testimony.

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THE COURT: Yeah. I think your question -- this question was broader in time prior to discussion.

BY MR. MORRISSEY:

Q. In 2014, what role did the sheriff's office play in housing wheelchair users on the third floor of Cermak?

A. We would get the housing referral from medical staff and then place the inmates accordingly.

Q. Would Cermak designate the specific cell on, let's say, 3 North, where a wheelchair user should be placed?

A. That is my understanding.

Q. Who within Cermak would designate the exact cell on 3 North where a wheelchair user would be placed?

MR. NICHOLS: Objection, only to the extent the question calls for speculation.

You can answer.

THE COURT: Everything is if you know.

BY THE WITNESS:

A. My understanding is that there would be collaboration between the nursing manager or some other Cermak staff who was on the floor or the unit and with staff from Cermak that was in the urgent care unit or potentially the RTU, and they would determine the

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appropriate housing.

Q. By "housing," you mean the cell where the wheelchair user would be placed, for instance, on 3 North?

A. Correct.

Q. How was the sheriff notified that a person was a wheelchair user?

A. I believe that medical staff would place an alert into the jail management system, which at the time was the IMAX system.

Q. Would the sheriff's office make any independent judgment whether a person was disabled and was prescribed a wheelchair by Cermak?

A. I do not believe so.

Q. So the sheriff always relied on the Cermak medical personnel to determine whether a person was prescribed a wheelchair and therefore disabled?

A. Yes. Cermak would be responsible for inputting the wheelchair alert into the system after they conducted their medical evaluation.

Q. What would the sheriff do, in the year 2014, to ensure that wheelchair users were housed in cells on the third floor of Cermak which had accessible toilets and sinks?

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MR. NICHOLS: Just a general relevancy objection. The timeframe. Mr. Flora wasn't in Cermak in 2012.

However, you can answer the question to the extent that you know.

MR. MORRISSEY: The question is 2014.

THE COURT: 2014.

MR. NICHOLS: I'll withdraw that objection.

You can answer.

BY THE WITNESS:

A. Because there's limited space on the third floor of Cermak, we would defer to Cermak staff on where they thought the best housing assignment would be for a particular individual.

Q. So if the sheriff -- Would anybody in the sheriff's office alert Cermak if a wheelchair user was placed in a cell on the third floor of Cermak which did not provide an accessible toilet or sink?

A. I'm not aware of any particular instance where someone from the sheriff's office would indicate to Cermak that they felt the individual was not placed in an accessible room.

Q. Were wheelchair users, in 2014, placed in inaccessible cells on the third floor of Cermak?

A. My understanding is that you would have more

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1 detainees that had wheelchair alerts than could be placed
2 in rooms that had ADA accessible features.

3 Q. So the answer is, to your knowledge, there were
4 wheelchair-assisted inmates placed on the third floor of
5 Cermak in rooms that didn't have accessible toilets and
6 sinks in the year 2014?

7 MR. NICHOLS: Objection, only to the extent that it
8 mischaracterizes the witness' previous testimony.

9 THE COURT: Overruled.

10 MR. NICHOLS: I'm also going to object to the extent
11 that it calls for a legal conclusion in terms of the
12 definition of "accessible" and inaccessible."

13 THE COURT: He's asking for a layperson's
14 definition. I'll overrule both of them.

15 BY THE WITNESS:

16 A. My understanding is that there would be times
17 when that could occur.

18 Q. What did the sheriff do when the sheriff found
19 out that a wheelchair user was in a room which was not
20 accessible? By "accessible," I mean a room that didn't
21 have grab bars around the toilet in the year 2014.

22 A. I'm not aware of -- I'm not aware of any
23 particular instance of when this happened, so I'm not
24 sure what sheriff staff would have done.

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1 Q. So as the sheriff's designee, is it your
2 position -- is it the sheriff's position, in the year
3 2014, people prescribed with wheelchairs by Cermak were
4 not placed in inaccessible rooms on the third floor of
5 Cermak?

6 MR. NICHOLS: Objection. It mischaracterizes his
7 previous testimony.

8 You can answer.

9 THE COURT: Overruled. He's just asking him a
10 question.

11 BY THE WITNESS:

12 A. I'm sorry. Can you repeat the question or
13 rephrase it?

14 MR. MORRISSEY: Can you read it back?

15 (Record read as requested?)

16 BY THE WITNESS:

17 A. My understanding is that there could be times
18 when you had more people who were receiving medical
19 treatment that were also wheelchair-bound than we had
20 rooms that had the ADA accessible toilet.

21 Q. What did the sheriff do in those circumstances
22 when the sheriff was aware that a wheelchair user was not
23 in an accessible room on the third floor of Cermak?

24 A. We would need to defer to Cermak on what they

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1 thought the best housing would be because the housing
2 would dictate what level of medical care that particular
3 individual could receive.

4 Q. I'm showing you what we're going to mark as
5 Plaintiff's Exhibit F, which is the sheriff's answer to
6 plaintiffs' amended complaint. And I'd ask you to look
7 at Paragraphs 8 and 9 of your answer to the complaint.

8 A. (Witness complying.)

9 Q. Is it the sheriff's position now that -- under
10 No. 8 -- that the sheriff was aware that there were not
11 sufficient ADA accessible housing units to provide an ADA
12 toilet and sink to an inmate at the jail?

13 MR. NICHOLS: Do you understand the question?

14 THE WITNESS: No.

15 BY MR. MORRISSEY:

16 Q. Let me rephrase the question.

17 The allegation in Paragraph 8 was, At all times
18 relevant, the Cook County jail has not had a sufficient
19 number of ADA accessible housing units to house each
20 qualified individual with a disability who enters the
21 jail. And the answer by the sheriff was they denied the
22 allegation contained in Paragraph 8.

23 We go on to Paragraph 9. At all times

24 relevant, defendant sheriff of Cook County, has been

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1 aware that Cook County jail has not had a sufficient
2 number of ADA accessible housing units for each qualified
3 individual with a disability who enters the jail. And,
4 again, the sheriff denied the allegation.

5 My question is, did the sheriff have sufficient
6 ADA accessible housing units to house wheelchair users in
7 the year 2014?

8 A. I know that renovations were made to Cermak in
9 2013. And as a result of the renovations, I believe that
10 we were compliant with the ADA requirements of having --
11 I believe it might be 3 percent or 10 percent of the beds
12 or units -- having them be ADA accessible.

13 So although there might have been times where
14 you had more people with wheelchairs than could be in
15 rooms that had the accessible toilets, it doesn't
16 necessarily mean that we did not have a sufficient number
17 according to the ADA.

18 Q. Well, did you have a sufficient number of rooms
19 at the jail to house wheelchair users in the year 2014?

20 A. I mean, this is a complicated question because
21 we had a sufficient number of rooms. I mean, the
22 detainees that were in wheelchairs all had rooms that
23 were in the medical infirmary where they were being
24 provided the appropriate level of medical care.

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Q. No. The question is -- Well, let me ask a preliminary question.

Approximately how many wheelchair users were at the jail in 2014?

A. I don't know.

Q. Did you have sufficient space in the jail to provide an accessible room to all wheelchair users in the year 2014? By "accessible," I mean a toilet that had a grab bar.

A. I believe that there were times in 2014 prior to moving to the RTU where there may have been inmates with wheelchairs that were not in rooms, but I'm not certain.

Q. What about the year 2013? Did you have sufficient rooms in the jail to provide an accessible cell for all wheelchair users?

MR. NICHOLS: I'm just going to make a general relevancy objection. Mr. Flora entered the jail in 2014.

MR. MORRISSEY: Well, this is a combined deposition of Mr. Vaughn and Mr. Flora. Mr. Vaughn came in in 2012.

MR. NICHOLS: And just for the record, fact discovery in Vaughn closed last month. So I'll just make it clear for the record that this deposition is pursuant to this case and not Vaughn.

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THE COURT: I'm not -- That's Judge Ellis' case --

MR. NICHOLS: Yeah.

MR. MORRISSEY: Yes.

THE COURT: I'm not going to rule on anything related to that case.

MR. MORRISSEY: But -- But our agreement --

THE COURT: You can take that up with Judge Ellis. By the way, you keep talking it's counting against your 90 minutes.

MR. MORRISSEY: I understand.

THE COURT: I turn into a pumpkin at a certain point.

MR. MORRISSEY: I understand, your Honor.

THE COURT: Okay.

MR. MORRISSEY: Our agreement provides from 2010 to the present.

MR. NICHOLS: Correct.

MR. MORRISSEY: So can he answer the question?

MR. NICHOLS: Correct. But that was assuming that we were doing joint depositions for both cases. We're not anymore.

MR. MORRISSEY: Well, this a joint deposition for Vaughn also.

MR. NICHOLS: Well, I object to that

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characterization.

However, Mr. Burke, you know, if you know the answer, you can answer the question.

But my objection stands.

BY THE WITNESS:

A. What I do know is that there were several renovations made to the Cermak building in 2013, which I believe increased the number of rooms with accessible toilets and sinks. So I believe that the number of wheelchair-bound detainees that were housed there was probably -- depending on the number that you ever had at one time, which fluctuated -- was greater in 2013 than it would have been in 2014. But I don't have the exact numbers.

Q. What did the sheriff do in 2014 when the sheriff discovered that a wheelchair user was in a cell that didn't have a toilet with grab bars?

A. In 2014 we had been preparing to open the residential treatment unit to M3s and wheelchair-bound detainees.

Q. My question -- For the wheelchair users in 2014, who were placed in cells that were not equipped with a toilet with grab bars, what provision did the sheriff provide those inmates to access the toilet?

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A. Without knowing of a specific instance on when there may have been someone in a cell that did not have the accessible toilet or sink, I wouldn't know.

I don't know how many other inmates with wheelchairs were on the third floor of Cermak, so I don't know whether or not there were other available beds where a particular individual could be moved to.

Q. So as the sheriff's designee you can't answer that question?

MR. NICHOLS: Objection to the extent that it mischaracterizes his previous testimony.

THE COURT: I think he gave you an answer. Figure it out.

MR. MORRISSEY: All right. We'll move on, Judge. BY MR. MORRISSEY:

Q. What did the sheriff do in the year 2014 to provide wheelchair users who were in either protective custody or in segregation with access to toilets and sinks?

MR. NICHOLS: Objection to the extent that the question exceeds the scope of the notice and the witness' designation.

THE COURT: I don't know. I mean, I don't see the question as being limited to people who are not in

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segregation or protective custody. So I don't know. If there's something in the categories or in the letter of the agreement, Mr. Nichols, let me know and I'll look at it. It just says --

MR. MORRISSEY: Vaughn and Flora were both in protective -- were both in --

THE COURT: Yeah. It just says inmates or detainees. I don't think it says inmates or detainees who are in the general population.

MR. NICHOLS: The agreement is silent as to that.

THE COURT: Okay. So the objection is overruled.

BY THE WITNESS:

A. For inmates that were either in segregation or protective custody that had the wheelchair alerts, they would be placed in one of the celled units in RTU. And within the celled units there were two cells --

Q. Well, let me stop you right there. I'm asking before the RTU was opened in August of 2014. What did the sheriff do to place either a person in protective custody in a wheelchair or in segregation in a cell with an accessible toilet and sink?

A. I'm sorry. But anywhere on the compound or are we referring just to the third floor of Cermak?

Q. I'm referring to wheelchair users in the year

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2014 who were placed in segregation or protective custody by the sheriff. Did the sheriff put them in 3 South on the third floor of Cermak?

A. I believe that that would be one location where they may be placed.

Q. What did the sheriff do if a prisoner was placed in either protective custody or segregation in 3 South and was not placed in a cell with an accessible toilet? Well, let me rephrase the question.

On 3 South in the year 2014, were wheelchair users who were either in segregation or protective custody placed in cells that did not have an accessible toilet and sink?

A. I'm afraid I don't know.

Q. Pardon?

A. I'm afraid I don't know.

Q. Other than 3 South in the year 2014, where else were wheelchair users in either protective custody or segregation placed?

A. I'm not certain, but I believe that maybe some detainees that were placed in segregation may have gone to Division 10 if they did not have a wheelchair alert that required them to be in the wheelchair at all times.

Q. Would you agree that when a wheelchair user was

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placed in either segregation or protective custody, that was a decision by the sheriff and not Cermak?

A. Yes.

Q. And it was the decision of the sheriff in the year 2014 where to place wheelchair users who were either in segregation or protective custody in a particular cell?

A. My understanding is that for protective custody and segregation and -- My understanding is that for detainees in segregation or protective custody that had an M4 alert and were in a wheelchair, that there were certain places where they -- where inmates would generally be housed. And I believe it was 3 South, but I'm not certain. But --

Q. Were there -- I'm sorry. Are you finished?

A. No. But depending on the nature of the medical care that the person was receiving, it was not certain that they would always go there.

So Cermak staff and correctional staff might collaborate and determine the more appropriate housing.

Q. Were there any cells on 3 South where wheelchair users in protective custody or segregation were placed that were accessible in the year 2014?

A. I'm not certain.

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Q. Did the sheriff -- What steps did the sheriff take in 2014 if a prisoner in a wheelchair was placed in segregation or protective custody in 3 South and was not provided with an accessible toilet with grab bars in a cell?

MR. NICHOLS: Objection, only to the extent the question has been asked and answered.

THE COURT: It sounds like it was asked and answered and you got an answer for it a while ago.

So I'll sustain the objection.

BY MR. MORRISSEY:

Q. I'm going to ask you questions now about the opening of the RTU after August 21st, 2014 for wheelchair users. At that time, in August of 2014, did the sheriff have a written policy regarding assigning wheelchair users to specific beds and dorms in the RTU?

A. There was no specific policy about the assignment of beds in RTU.

Q. In each dorm in the RTU there were two beds which were designated for wheelchair users. Is that your understanding?

A. Yes. There were two beds that did not have the concrete stool in front of the desk.

Q. What was -- If there was no written policy

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1 after August 21st, 2014 in regards to placing wheelchair
2 users in dorms, what was the practice as far as assigning
3 wheelchair users to specific beds in the dorms?

4 **A. Cermak would place the wheelchair alert into**
5 **the system. Then either the classification unit or the**
6 **residential treatment unit tiering officer would make the**
7 **particular bed assignment for an individual.**

8 **Q. Were the tier officers for the dorms in the RTU**
9 **trained after August 21st, 2014 to assign wheelchair**
10 **users to the designated wheelchair beds in the dorms?**

11 **A. Given the fact that you had more people in**
12 **wheelchairs than there may have been beds, my**
13 **understanding is they would do their best, given the**
14 **classification and the availability, to put them in those**
15 **beds.**

16 **Q. Do you recall in your August 6th -- or**
17 **August 4th deposition, you acknowledged in the compliance**
18 **implementation plan that there were 66 accessible beds in**
19 **the RTU?**

20 **A. Yes.**

21 **Q. Were there more than 66 wheelchair users after**
22 **August 21st, 2014 in the RTU?**

23 **A. I'm not certain.**

24 **Q. And what do you base that there were not enough**

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1 accessible beds in the RTU to provide an accessible bed
2 to all wheelchair users?

3 **A. I think we need to make clear that that list**
4 **that went over -- or the list that designated the people**
5 **that were going over were generally going to either the**
6 **second or third floor of the RTU. Not the entire**
7 **building.**

8 **The entire building had the 66 beds, but that**
9 **included the fifth floor which is for women, the fourth**
10 **floor which is for inmates receiving an intermediate**
11 **level of mental healthcare.**

12 **And so although I've never seen the actual**
13 **numbers of wheelchair-bound detainees who went to the**
14 **third floor during that move, it's my belief that there**
15 **were more -- if not on that first day, at least -- at**
16 **certain points after that than we actually had the beds**
17 **that did not either have that stool in front of the desk**
18 **or the cells that had the accessible toilets.**

19 **Q. All right. In addition, after the move to the**
20 **RTU on August 21st, 2014, the sheriff retained the**
21 **jail -- the accessible beds or cells in the Cermak,**
22 **correct?**

23 **MR. NICHOLS: Do you understand the question?**

24 **MR. CONDRON: Objection, vague.**

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1 THE WITNESS: No.

2 BY MR. MORRISSEY:

3 **Q. In addition to the RTU after August 21st, 2014,**
4 **there were also -- there was other accessibility at the**
5 **jail to place wheelchair users?**

6 **A. There were different areas in the jail where**
7 **there were accessible cells or living units.**

8 **Q. If there were not sufficient accessible beds in**
9 **the dorms in the RTU after August 21st, 2014, did the**
10 **sheriff place wheelchair users in the other accessible**
11 **areas of the jail?**

12 **A. The determination to move somebody to the RTU**
13 **would have been made by Cermak, and Cermak would make**
14 **that determination based on their medical assessment of**
15 **the person.**

16 **So if we had decided unilaterally to move**
17 **somebody to a different area of the jail, we would be**
18 **going against the housing and medical recommendations of**
19 **Cermak.**

20 **Q. Was there a practice or procedure, if there was**
21 **not an accessible bed in the RTU, for the sheriff to**
22 **request the medical staff for permission to move a**
23 **wheelchair user to another location at the jail?**

24 **A. I don't believe that we ever requested**

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1 **permission to move somebody. Like I said, that would be**
2 **substituting our judgment for theirs, and it would**
3 **probably lead to the person being placed in a setting**
4 **where they wouldn't get the level of medical care that**
5 **Cermak determined they needed.**

6 **Q. So there was never a situation where the**
7 **sheriff, if a person was in an inaccessible cell or dorm**
8 **in the RTU, would request Cermak to collaborate and have**
9 **the person moved to another location?**

10 **MR. NICHOLS: Objection to the extent the question**
11 **misstates the witness' previous testimony.**

12 **THE COURT: Overruled. It's a question.**

13 BY THE WITNESS:

14 **A. There were other types of accommodations that**
15 **could be provided to those who may not have been in one**
16 **of the accessible -- in the beds without the stool in**
17 **front of the desk.**

18 **Q. Who would then, at Cermak, would the sheriff**
19 **have had to ask permission to move a prisoner who was**
20 **wheelchair-bound to an accessible cell or dorm in another**
21 **location of the jail other than the RTU?**

22 **A. I don't know specifically who we would ask.**
23 **Maybe Dr. Minnella (phonetic).**

24 **Q. What did the -- In regards to the RTU and**

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1 people that were placed in protective custody or
2 segregation by the sheriff who were in wheelchairs, where
3 did the sheriff place them in the new RTU?

4 **A. The celled units would be used for those that
5 were in segregation or protective custody.**

6 Q. So that would be either Tier 3A or 3E?

7 **A. I believe that's right.**

8 Q. Was there any written direction given to the
9 tier officers in regards to what cell to put a wheelchair
10 user in who was in segregation in either Tier 3A or 3E?

11 **A. I'm not aware of any written direction. No.**

12 Q. In each -- In Tier 3A there are ten cells?

13 **A. Correct.**

14 Q. Only one of them was accessible with an
15 accessible toilet?

16 **A. I thought it might have been two, but I'm not
17 certain.**

18 Q. And in 3E, again, there was only one cell out
19 of ten that had grab bars around the toilet?

20 **A. Like I said, I thought it was two, but I'm not
21 disputing it.**

22 Q. Was there a practice in the sheriff's office if
23 a wheelchair user was placed in protective custody or
24 segregation to ensure that that person was placed in

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1 one -- in a cell that was accessible around the -- with
2 grab bars?

3 **A. I believe the expectation would be that if
4 there was one available, then someone that was
5 wheelchair-bound would be placed in that. If there was
6 not one available, then accommodations would be made.**

7 Q. When you say "the expectation," were tier
8 officers specifically trained to place wheelchair users
9 in segregation in accessible cells?

10 **A. I don't know if there was specific training to
11 that.**

12 Q. What procedures -- After the RTU was opened in
13 August 21, 2014, what procedures were in place to ensure
14 that wheelchair users placed in segregation or protective
15 custody were housed in cells which were accessible?

16 **A. The sheriff's ADA coordinator would make
17 frequent rounds to these living units and would speak to
18 those who had wheelchair alerts to see how everything was
19 going.**

20 **The ADA coordinator would also respond into all
21 grievances that anyone made alleging that they were not
22 placed into an accessible cell.**

23 **They would also -- The ADA coordinator would
24 also respond to requests to be placed into the ADA**

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1 **accessible cells.**

2 Q. If a wheelchair user, after August of 2014,
3 complained that they were not in an accessible cell in
4 the RTU, would the ADA coordinator then have the power to
5 move that person to an accessible cell either in the RTU
6 or some other location in the jail?

7 **A. I do not believe that the ADA coordinator would
8 ever recommend moving someone out of the RTU. But I
9 believe that the ADA coordinator, if they were able to
10 identify an open ADA bed, could make that recommendation
11 to divisional supervisors to have that person moved.**

12 Q. Was there a procedure then in place that the
13 person would be moved to an accessible bed in either the
14 RTU or another location in the jail?

15 **A. I don't believe there was a written procedure,
16 but I do believe that that did happen.**

17 Q. Between the time the justice department -- the
18 DOJ came out in May of 2010 up to the present, did the
19 jail have relationships with other prisons and jails to
20 house Cook County prisoners?

21 MR. NICHOLS: Objection, only to the extent that the
22 question exceeds the scope of the notice and the witness'
23 designation.

24 THE COURT: If you think it does, tell me how

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1 you think it does so I understand.

2 MR. NICHOLS: Well, in the actual notice of
3 deposition, there's nothing for which --

4 THE COURT REPORTER: I'm sorry. Can you speak up,
5 please?

6 MR. NICHOLS: Oh. Yes.

7 THE COURT: I'll come over here so he's not talking
8 away from you.

9 MR. NICHOLS: Mr. Burke was designated to respond to
10 Item 3, Item 4B, C, D and F of the notice. There's
11 nothing in the notice that refers to sending detainees to
12 other facilities. Any agreements that the sheriff may
13 have had with other facilities has just not been --

14 THE COURT: And the question had to do with
15 facilities other than Cook County, Mr. Morrissey?

16 MR. MORRISSEY: Right. But our notice provided
17 oversight by Dart related to accessibility for detainees.

18 THE COURT: And I think it's close enough. The
19 objection is overruled.

20 BY THE WITNESS:

21 **A. I'm sorry.**

22 Q. Do you want me to --

23 **A. Yeah. Try again.**

24 Q. Sure. If the jail didn't have a spot for a

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1 wheelchair user after the justice department's letter in
2 May of 2012, could the sheriff have moved the prisoner to
3 an outlying jail under your agreements with these other
4 facilities?

5 MR. NICHOLS: Objection, form.

6 You can answer.

7 BY THE WITNESS:

8 A. I --

9 Q. Well, let me ask a preliminary question.

10 Between May of 2012 to the present, has the
11 sheriff moved prisoners because of overcrowding to other
12 jails in the State of Illinois?

13 A. We have moved inmates to other county jails
14 because of safety and security reasons and sometimes some
15 overcrowding issues. Yes.

16 Q. Did the sheriff ever experience a situation,
17 between May of 2012 and the present, where the sheriff
18 did not have enough cells -- accessible cells for
19 wheelchair users?

20 A. As stated, I believe there were periods when
21 there were more people in wheelchairs in Cermak than
22 could be placed in the limited number of ADA accessible
23 cells.

24 Q. Did the sheriff ever make an attempt to

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1 accommodate those wheelchair users by placing them in a
2 facility outside of Cook County jail?

3 A. No.

4 Q. Why not?

5 A. Just off the top of my head, I think it would
6 be -- I don't know if it would actually be discriminatory
7 towards those in wheelchairs to move them several hundred
8 miles away.

9 I'm also not certain whether or not some of
10 these other jails would have -- would be able to
11 accommodate the detainees. And I don't know if it would
12 be the best for the individual medically.

13 Q. Did the sheriff ever make a request to any
14 other jail facility to accommodate wheelchair users
15 during that time period?

16 A. I don't believe so. No.

17 Q. You're aware that Mr. Flora was housed on the
18 third floor of Cermak between May 1st, 2014 when he came
19 into the jail through August 21st, 2014?

20 A. Yes.

21 Q. I'm going to show you what's been marked as
22 Plaintiff's Exhibit A. It's the Cook County answer to
23 request to admit. And I'm going to ask you to look at
24 Paragraph 16 specifically in regards to the accessibility

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1 on 3 North of Cermak.

2 A. (Witness complying.)

3 Q. Tell me when you're finished reading.

4 A. Okay.

5 Q. The County admitted that on 3 North where
6 Mr. Flora was housed, that only Room 3243 had at least
7 one grab bar at the time that he was housed in Cermak,
8 correct?

9 A. The answer states that defendant further admits
10 that no other room on 3 North had at least one grab bar
11 near the toilet during said timeframe.

12 Q. And it's your understanding, between May 1st,
13 2014 and August 21st, 2014, that Mr. Flora was housed on
14 the third floor of Cermak?

15 A. Correct.

16 Q. And he was not placed in the one room that had
17 some accessibility, Room 3243?

18 A. I'm not trying to be difficult, but I don't
19 know where exactly he was housed, so ...

20 Q. What did -- Assuming Mr. Flora was not placed
21 in 3243, what did the sheriff do during that time period
22 to provide Mr. Flora with access to a toilet and sink?

23 A. On 3 North you have nursing staff and medical
24 staff and correctional staff that are right there. So I

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1 believe if he ever needed assistance, there would be
2 people there who could assist.

3 Q. So is it the sheriff's position that, assuming
4 Mr. Flora was not in a cell which met the structural
5 requirements of the ADA, he could ask either a nurse or a
6 correctional officer for assistance?

7 A. Yes. I believe he could.

8 Q. And if Mr. Flora, in that time period between
9 May 1st and August 21st, 2014, asked one of those
10 individuals, is it the sheriff's position that a portable
11 toilet, slash, shower chair would have been brought into
12 his room?

13 A. I don't know the exact layout of the room. I
14 did not think that there were showers in the room, but
15 that there was a separate shower area.

16 Q. Well, let me rephrase it then.

17 Is it the sheriff's position that Mr. Flora
18 could always have requested from the staff on the third
19 floor of Cermak for assistance? And by "assistance,"
20 that would have meant bringing him a portable commode
21 chair into his room.

22 MR. NICHOLS: Objection to the form of the question.

23 MR. CONDRON: I'll join.

24 MR. NICHOLS: You can answer.

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THE COURT: What's the problem with the form?

MR. NICHOLS: It's a compound question.

THE COURT: Now you know what the potential problem with the form is. You want to rephrase it?

MR. MORRISSEY: Okay.

BY MR. MORRISSEY:

Q. How did -- Assuming Mr. Flora was not in an accessible room on 3 North, how did the sheriff accommodate his need to toilet?

A. I'm afraid I don't know the specifics of what needs he had in terms of whether it would be one of the chairs, if it would be assistant getting on -- assistance getting onto the toilet by nursing staff.

Q. Assuming Mr. Flora needed to use an accessible toilet between May 1st, 2014 and August 21st, 2014, what accommodation under the ADA was provided for him if he was in an inaccessible cell?

MR. NICHOLS: I just want to make clear for the record that the ADA coordinator, Sabrina Rivera-Controllo, was designated to answer these specific questions with respect to accommodations in each individual cell within Cermak.

However, to the extent that you know the answer to these questions, do your best to try to answer.

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BY THE WITNESS:

A. My only understanding was that toilet chairs could be provided or actual physical assistance by medical staff.

Q. I'm going to show you what's been marked as Plaintiff's Exhibit B. It's a grievance by Mr. Flora on August 18th, 2014. I'd ask you to take a look at that. Is that a grievance form that's used at the jail?

A. Yes.

Q. I'd ask you to read his summary of his complaint to yourself for a moment.

A. (Witness complying.)

Q. Did you have an opportunity to read that?

A. Yes.

Q. Now, the substance of his complaint is that he was placed in an inaccessible cell in Cermak in the summer of 2014, correct?

A. Correct.

Q. And who is Marlene Fuentes (phonetic)?

A. She was the ADA coordinator at the time.

Q. And she worked for you?

A. Correct.

Q. And you designated her to respond to all ADA requests by wheelchair users at the jail?

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A. Yes. As part of our policy, the ADA coordinator would respond to ADA-related grievances.

Q. And Ms. Fuentes, on August 26th, 2014, responded to Mr. Flora's complaint that he was not placed in an accessible cell in the summer of 2014, correct?

A. Yes. She responded.

Q. And that was after he was moved to the RTU?

A. Yes.

Q. And in the body of her response, she said the grievance is moot because Mr. Flora has been moved to Division 8, 3C as of 8/21/14, correct?

A. Yes. I'm having trouble reading the next part.

Q. The next part says, for future reference, there are toilet, slash, shower chairs available on 3 South and 3 North at Cermak. Please notify staff when you require the use of one. That's the response she gave -- the official response she gave to Mr. Flora to his grievance?

A. Correct.

Q. And is that the policy -- Was that the policy in August of 2014, if a wheelchair user was placed in an inaccessible cell, he could request a portable toilet chair?

MR. NICHOLS: Objection to the extent that it's vague. Are we talking about Cermak and the RTU or just

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Cermak?

MR. MORRISSEY: I'm talking about the policy in August of 2014.

BY THE WITNESS:

A. In Cermak?

Q. In the jail.

THE COURT: He's not limiting it to a particular location, if someone is in Division 10 or whatever.

BY THE WITNESS:

A. Yeah. They could request from staff if they needed assistance.

Q. Has that changed -- that policy changed since August of 2014? If a wheelchair user is placed in an inaccessible cell at the jail, is it the policy that the person -- the wheelchair user has to request assistance from the sheriff?

A. In Cermak they would request assistance from Cermak staff, most likely. And I'm not certain if this -- if it occurs elsewhere or --

Q. Is it the sheriff's position that if the sheriff satisfies their ADA obligations to a wheelchair user by having a policy whereby the wheelchair user can request assistance if they're not in an accessible room, and the sheriff will bring -- or the medical staff will

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bring a portable commode chair into the room?

A. My understanding is that that would be a measure that we could take to provide an accommodation. Yes.

Q. You're aware -- And that's the policy today?

A. The policy today is that we will do our best to accommodate someone's disability.

Q. And today, if a person who's wheelchair-bound is placed in an inaccessible cell by the sheriff, it's still the policy that the person has to request assistance?

A. I'm afraid I don't know what you're getting at here. I don't --

Q. Let me be specific. If a wheelchair user is placed in segregation in either 3A or 3E and not in the accessible cell on either tier, what is the procedure of the sheriff?

THE COURT: With regard to toileting?

MR. MORRISSEY: With regard to toileting.

MR. CONDRON: My only objection would be are we talking about currently? Is that part of the notice?

THE COURT: That's what he means.

You're asking today, right?

MR. MORRISSEY: Right.

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THE COURT: Right.

BY THE WITNESS:

A. I'm afraid I'm not familiar with exactly how that would work today. My understanding is that if we did not have an accessible cell available for somebody who used a wheelchair, I would imagine that they would request assistance to use the toilet.

I do know that there have been cases or situations -- and I don't know the specifics -- where an inmate would simply call out and say, Officer, I need to use the bathroom. And if they're in one of those cells, the officer who's 15 to 20 feet away in an open area, not behind a bubble or anything like that, would just come and let the person out and they could use the accessible toilet that's in the day room.

Q. You're aware that Mr. Vaughn was in segregation or protective custody this summer in the RTU?

MR. NICHOLS: Objection, only to the extent that fact discovery is closed on Vaughn. I see you're trying to elicit testimony pertaining to that case, but fact discovery is closed.

I'm instructing my client not to answer.

MR. MORRISSEY: I don't want to have to go back to Judge Ellis, but this is a continuation of the Flora and

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Vaughn deposition.

MR. NICHOLS: Certainly, the fact discovery is closed in Vaughn, Mr. Morrissey.

THE COURT: I'm not going to weigh-in on that one.

BY THE WITNESS:

A. I am aware that Mr. Vaughn was in segregation because I saw a video of him standing up and getting into a fight.

Q. What -- And he was prescribed a wheelchair by Cermak?

MR. NICHOLS: Same objection. Same objection to all these questions pertaining to Mr. Vaughn. Again, fact discovery is closed in that case.

BY MR. MORRISSEY:

Q. After the justice department came out with their letter in May of 2012, did Thomas Dart have weekly meetings with management personnel at the jail at Cermak?

MR. NICHOLS: Objection to the extent that the question is beyond the scope of the notice and beyond the scope of the witness' designation.

THE COURT: You're asking about something current, right?

MR. MORRISSEY: Well, I'm asking from 2012 to the present about sheriff's meetings and what the sheriff and

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his management team did or didn't do in regards to wheelchair users.

MR. NICHOLS: And I'm maintaining that objection.

THE COURT: Overruled.

BY MR. MORRISSEY:

Q. Let me ask a preliminary question.

In the year 2012, the sheriff, Tom Dart, would have weekly meetings with management personnel?

A. Yes. He would hold weekly accountability meetings, we called them.

Q. And you would be present at those meetings as the chief of staff?

A. At the time I was, I believe, assistant general counsel. So not in my current role.

Q. But you were involved in those meetings?

MR. NICHOLS: Objection, only to the extent the question may implicate attorney-client privilege.

THE COURT: Whether he was in a meeting isn't privileged, so ...

BY MR. MORRISSEY:

Q. Well, let me --

A. Yes. I would attend.

Q. And after the justice department's letter came out in May of 2012, was the issue of providing

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1 accessible -- accessibility to wheelchair users for the
2 jail discussed at those weekly meetings with Tom Dart
3 present?

4 **A. I do not recall that issue ever being raised at**
5 **one of the accountability meetings.**

6 Q. During the weekly meetings -- They continued to
7 the present, correct?

8 **A. No. There are no more accountability meetings.**

9 Q. Well, are there sheriff's meetings which you
10 attend with Director Morrisay (phonetic)?

11 **A. Director who?**

12 Q. Morrisay?

13 **A. Morici?**

14 Q. Morici.

15 **A. Yes. We meet every once in a while.**

16 Q. And that's on a regular basis?

17 **A. I wouldn't call it a regular basis, but ...**

18 Q. But at those meetings, you're present, Morici
19 is present, the director at the jail, the executive
20 director Jones is present?

21 **A. Correct.**

22 Q. The former director, Kara (phonetic) Smith,
23 sometimes is present?

24 **A. Sometimes.**

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1 Q. And so it's a smaller group of management at
2 the jail, correct?

3 **A. Correct.**

4 Q. During any of those meetings, from 2012 to the
5 present, has there ever been any discussion in regards to
6 the need to provide accessibility for wheelchair users at
7 the jail?

8 **A. I don't recall that ever being a topic.**

9 Q. Has the department of justice's oversight in
10 regards to accessibility at the jail ever been discussed
11 at those weekly or periodic meetings with Tom Dart?

12 **A. I don't recall that ever being raised.**

13 Q. Has the need at those meetings to collaborate
14 with your medical partner at Cermak in regards to
15 wheelchair users and accessibility ever been discussed at
16 those meetings after the DOJ's letter came out?

17 **A. You're referring to the accountability meetings**
18 **or --**

19 Q. I'm referring to these meetings where the
20 chief -- where Tom Dart was present and either a more
21 broader group of people was initially present at those
22 meetings, and then later on where there was a closer-nit
23 group. You said after 2014. I narrowed it to a more
24 insular group of people. My question is, at any of those

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1 meetings, did the sheriff ever discuss the need or
2 anybody in the meetings ever discuss the need to
3 collaborate more fully with the Cermak personnel to make
4 sure that wheelchair users were provided accessibility at
5 the jail?

6 **A. I don't recall that ever being an issue in one**
7 **of those meetings.**

8 Q. At those meetings -- In all those meetings, was
9 there ever any discussion about the opening of the RTU at
10 the jail?

11 **A. I don't recall a specific meeting of where that**
12 **was discussed, but I imagine that we would have raised**
13 **the issue because it was important.**

14 Q. Did the transfer of wheelchair prisoners from
15 other locations of the jail to the new RTU ever get
16 discussed in those sheriff's meetings?

17 **A. I don't believe so. No.**

18 Q. Did the fact that -- Did the issue of whether
19 or not the sheriff had sufficient space at the jail for
20 wheelchair users ever get discussed at those sheriff's
21 meetings?

22 **A. I don't believe so. No.**

23 Q. Did you discuss at those meetings moving
24 prisoners from Cook County to other jails because of

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1 overcrowding -- at those meetings?

2 **A. I don't believe so. No.**

3 Q. It's the sheriff's position that the
4 responsibility for placing wheelchair users in
5 inaccessible housing at the jail was a decision made by
6 Cermak?

7 MR. NICHOLS: Objection to the extent the question
8 has been asked and answered.

9 THE COURT: Can you break it down in terms of time?

10 MR. MORRISSEY: Yeah.

11 BY MR. MORRISSEY:

12 Q. Prior to the opening of the RTU in August
13 of 2014, is it the sheriff's position that it was
14 Cermak's responsibility to place wheelchair users in
15 accessible cells?

16 MR. NICHOLS: Same objection.

17 THE COURT: That exact question wasn't asked.

18 Questions close to that were asked, but you can
19 answer that question.

20 BY THE WITNESS:

21 **A. As laid out in the agreed order and as laid out**
22 **in our interagency agreement, Cermak is responsible for**
23 **the medical evaluations and then determining appropriate**
24 **housing.**

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MR. MORRISSEY: Could we take a one minute break?
We're wrapping up, Judge.
THE COURT: Sure.

(A short break was had.)

BY MR. MORRISSEY:

Q. The summer of 2014 the sheriff had an ADA coordinator?

A. Correct.

Q. Did the sheriff's ADA coordinator have any responsibility to tell you or other high management people at the jail when wheelchair users were not in accessible cells?

A. I don't know if it was a -- she would have a responsibility to raise serious concerns related to the ADA or inmates with disabilities.

Q. Does the sheriff consider it a serious concern when a wheelchair user was placed in an inaccessible cell in the summer of 2014?

A. I would say that because historically detainees with serious medical conditions who were in wheelchairs had always been housed on the third floor of Cermak where they were being provided with an intense level of medical treatment with lots of medical staff around, that that would not have been alarming.

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Q. Now, in addition to the third floor, the sheriff placed wheelchair users in Division 2, M and N, correct?

A. Yes. Cermak would designate certain detainees to be placed in the M and N house.

Q. And that -- The Division 2, M and N, was renovated after the class action in Fitz' versus the Sheriff of Cook County?

MR. NICHOLS: Objection, only to the extent that the case you're referring to ultimately was resolved via settlement, and there was a confidentiality agreement pertaining to that.

I don't know where you're going with this, but I certainly do not want Mr. Burke commenting on --

MR. MORRISSEY: It's a public document.

THE COURT: What was the question? State the question again so I know what --

BY MR. MORRISSEY:

Q. Division 2, Tiers M and N were renovated in 2008 after the Fitz versus the Sheriff Sheen case was settled, correct?

MR. NICHOLS: Objection, also to the extent that this is well outside of the scope of the relevant time period for Mr. Flora. Also, it's beyond the scope of

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Mr. Burke's designation. It's beyond the scope of the notice.

THE COURT: The problem is he had to break down the question because of the objection. So the objection about disclosing the settlement is overruled because that's not what it asked for. The prior question was within the scope of the time period because it had basically asked about, you know, a longer scope.

So I think you're going to have to put the whole question over again, Mr. Morrissey, rather than trying to --

MR. MORRISSEY: Okay.

BY MR. MORRISSEY:

Q. In addition to between 2010 and the present, the sheriff places wheelchair users in Division 2, M and N?

MR. NICHOLS: Same objections. It's beyond the scope of the notice and the witness' designation.

THE COURT: I disagree. Paragraph 4D. I'm looking at the agreement.

Overruled. Go ahead and answer.

BY THE WITNESS:

A. Yes. M and N house has been used to house inmates in wheelchairs.

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Q. And that Cermak, in the summer of 2014, was being used by the sheriff to house wheelchair individuals that didn't have an M4 classification by the medical staff?

A. I'm not certain exactly what every person's medical classification was.

Q. What is M4? What is your understanding of what M4 means?

A. It means the person is receiving -- or is acutely medically --

Q. And on August 21st, 2014 --

A. I'm sorry. Is receiving inpatient care, is the best way to look at it.

Q. Okay. The RTU doesn't hold people, to your understanding, that are receiving acute care; that's the same care that's provided in Cermak?

A. It's a step down. They're M3 so it's the intermediate level of care.

Q. And Flora was transferred from Cermak, which was the acute care building, to the RTU along with 31 other wheelchair users in Cermak to the RTU?

A. I'm not certain if all 31 who were transferred were in wheelchairs or not. But I believe that was the number that were transferred from Cermak.

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Q. So my question is, there were wheelchair users that were housed by the sheriff in Cermak that didn't require a high level of medical care -- weren't an M4 classification by Cermak?

A. I can only assume that Cermak was able to move the people out of Cermak when the RTU was opened, because the RTU was able to provide a certain level of care that the other buildings at the time could not provide.

Q. Now, you mentioned this collaboration between the sheriff and your medical team, Cermak, as far as placing disabled people in housing at the jail, correct?

A. Correct.

Q. And that stems from the justice department's consent decree in 2010?

A. I wouldn't necessarily say that.

Q. Well, the sheriff, Cermak and the justice department agreed that disabled people should be placed in appropriate housing at the jail?

A. As determined by Cermak.

Q. Okay. And it was -- It's your position that the sheriff and Cermak collaborated as far as placing wheelchair users in housing at the jail?

A. My position is that Cermak will indicate the appropriate housing, and we will invariably follow that

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direction unless there are serious security or safety concerns. At which point we will raise those with Cermak staff and collaborate with them to find the most appropriate housing, taking into consideration their medical needs, classification, other security and medical concerns.

Q. I'd ask you to look at -- and this is the final question -- the Cook County's answer to request to admit, Paragraph 15. And it states from August 30th, 2014 to August 10th, 2014 [sic], the employees of the sheriff in Cook County were jointly responsible for assigning inmates to rooms on the third floor of -- the third floor of Cermak's infirmary. And Cook County denies that. Do you see that?

A. Uh-huh.

Q. So is it your position that Cook County was solely responsible then for placing wheelchair users in the summer of 2014 in rooms that didn't provide accessible toilets?

MR. NICHOLS: Objection. Misstates the witness' previous testimony.

MR. CONDRON: I'll join in that objection.

THE COURT: It's just a question.

You can answer.

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MR. MORRISSEY: Well, I'll ask it again.

BY MR. MORRISSEY:

Q. Is it the sheriff's position that your medical partner that was retained by the sheriff -- Well, strike that.

The sheriff is responsible for the jail, correct?

A. The sheriff is responsible for the safety and security of the jail.

Q. And the sheriff is responsible for providing medical care for prisoners at the jail?

A. As outlined in the agreed order and in our interagency agreement, Cermak is responsible for providing medical care.

Q. The Illinois statutes provide that the sheriff is responsible for the healthcare of prisoners at the jail?

MR. NICHOLS: Objection. The question is seeking a legal conclusion.

THE COURT: Overruled. Seriously.

You're a lawyer, right?

THE WITNESS: Yes.

THE COURT: Yeah. Okay. You know, he's operating pursuant to a certain set of statutes, so the objection

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is overruled.

BY THE WITNESS:

A. I'm saying in Cook County Cermak is responsible for the medical --

Q. And my question --

THE COURT: He's asking you about the Illinois statute, and I would really like to be out of here, so let's just keep to that question.

BY THE WITNESS:

A. Yes. The Illinois statute states something along the lines of that the sheriff is responsible for the custody and care of the inmates. Yes.

Q. And the sheriff retained Cermak to provide healthcare at the jail?

A. I don't know if "retained" is the --

THE COURT: Do you have an understanding? Do they have an understanding with Cermak?

THE WITNESS: They have an understanding.

BY MR. MORRISSEY:

Q. And it's the sheriff's position that the sheriff, as keeper of the jail, has no responsibility in regards to where wheelchair users were placed in summer of 2014 in regards to accessibility?

MR. NICHOLS: Objection. The question misstates the

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witness' previous testimony.

THE COURT: First of all, you're talking about August 10th or whatever it is?

MR. MORRISSEY: Yeah.

THE COURT: I mean, it's argumentative.

It's sustained.

MR. MORRISSEY: We're done.

THE COURT: You're done?

MR. MORRISSEY: We're done.

THE COURT: Do you have any questions?

MR. NICHOLS: I have no follow up.

THE COURT: All right. Thanks folks.

MR. MORRISSEY: Thanks a lot, Judge.

MR. NICHOLS: We'll reserve signature.

(Witness excused.)

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UNITED STATES OF AMERICA)
NORTHERN DISTRICT OF ILLINOIS)
EASTERN DIVISION) SS.
STATE OF ILLINOIS)
COUNTY OF COOK)

I, Shelley M. Bostetter, Certified Shorthand Reporter and Notary Public, do hereby certify that MATTHEW BURKE was first duly sworn by me to testify to the whole truth and that the continued above deposition was reported stenographically by me and reduced to typewriting under my personal direction.

I further certify that the said deposition was taken at the time and place specified and that the taking of said deposition commenced on the 23rd day of September, A.D., 2016, at 9:30 o'clock a.m.

I further certify that I am not a relative or employee or attorney or counsel of any of the parties, nor a relative or employee of such attorney or counsel, or financially interested directly or indirectly in this action.

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IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

HAROLD VAUGHN,

Plaintiff,

vs.

THOMAS DART, Sheriff of Cook
County, and COOK COUNTY,
ILLINOIS,

Defendants.

DONNELL FLORA,

Plaintiff,

vs.

THOMAS DART, Sheriff of Cook
County, and COOK COUNTY,
ILLINOIS,

Defendants.

I, MATTHEW BURKE, state that I have read the foregoing transcript of the continued testimony given by me at my deposition on the 23rd day of September, 2016, and that said transcript constitutes a true and correct record of the testimony given by me at said the deposition except as I have so indicated on the errata sheets provided herein.

MATTHEW BURKE

No corrections (Please initial)
Number of errata sheets submitted (pgs.)
SUBSCRIBED AND SWORN to
before me this day
of , 2016.

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September 23, 2016

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In witness whereof, I have hereunto set my hand and affixed my seal of office at Chicago, Illinois, this 26th day of September, A.D., 2016.

SHELLEY M. BOSTETTER, CSR
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CSR No. 084-004410

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TOOMEY REPORTING
312-853-0648

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

JAMES ROBERTS,)
Plaintiff,)
vs.) No. 16-CV-5560
THOMAS DART, SHERIFF of COOK) (Jury Demand)
COUNTY, and COOK COUNTY,)
ILLINOIS,)
Defendants.)

The deposition of **JAMES ROBERTS**, taken pursuant to notice, before Dawn M. Lombardo, CSR No. 084-001879, Certified Shorthand Reporter in and for the County of Cook, State of Illinois, at Cook County Department of Corrections, Division 08-RTU, 2700 South California Avenue, Chicago, Illinois, on **December 9, 2016**, commencing at approximately 12:45 o'clock p.m.

Dawn M. Lombardo, C.S.R.
(708) 296-7979

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I N D E X	
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Examination by:	
Ms. Carroll	4
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Ms. Carroll	117
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<u>Number</u>	<u>Marked for Identification</u>
1	88
(Exhibit attached.)	

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APPEARANCES:

THOMAS G. MORRISSEY, LTD, by
MR. PATRICK W. MORRISSEY
10150 South Western Avenue
Suite Rear
Chicago, Illinois 60643
(773) 233-7900
appeared on behalf of the Plaintiff;

HONORABLE KIM FOXX, STATE'S ATTORNEY OF
COOK COUNTY, ILLINOIS, by
MS. JACQUELINE B. CARROLL
Assistant State's Attorney
Conflicts Counsel Unit
69 West Washington
Suite 2030
Chicago, Illinois 60602
(312) 603-1434
appeared on behalf of the Defendant
Cook County, Illinois;

HONORABLE KIM FOXX, STATE'S ATTORNEY OF
COOK COUNTY, ILLINOIS, by:
MS. ANDREA L. HUFF
Assistant State's Attorney
Torts and Civil Rights Litigation
Richard J. Daley Center
50 West Washington Street
Room 500
Chicago, Illinois 60602
(312) 603-3473
appeared on behalf of the Defendant
Thomas Dart, Sheriff of Cook County.

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(Witness sworn.)

MS. CARROLL: Let the record reflect this is the deposition of the Plaintiff James Roberts in the case of James Roberts versus Dart, et al., 16 C 5560. My name is Assistant State's Attorney Jacqueline Carroll. I am with Andrea Huff who represents the Sheriff. I represent the County. And also here is Patrick Morrissey who is your attorney. This deposition will be conducted according to the Federal Rules of Civil Procedure and the Local Rules of the Northern District. We've convened pursuant to notice. Today is December 9th, 2016, and the time is approximately 12:45 p.m. This deposition is being taken at the Cook County Department of Corrections in the RTU in Chicago, Illinois.

JAMES ROBERTS

called as a witness herein, having been first duly sworn, was examined and testified as follows:

EXAMINATION

BY MS. CARROLL:

Q. Can you please state and spell your full name for the record.

A. My name is James, J-a-m-e-s, Samuel,

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1 Samuel, S-a-m-u-e-l, Roberts, R-o-b-e-r-t-s.
 2 Q. Okay. Have you ever been to a
 3 deposition before?
 4 A. No.
 5 Q. Okay. Have you been told what a
 6 deposition is or how it works?
 7 A. I've got a vague idea.
 8 Q. Okay. Let me explain some things.
 9 I'm going to ask you a series of questions, and
 10 you are under oath, the same thing as in
 11 criminal, where you have to tell the truth.
 12 There's a court reporter here and she's taking
 13 down everything that you're saying, and in the
 14 end she'll have what's called a transcript of
 15 what was discussed here. So it's very important
 16 that you understand the questions that I ask and
 17 that you answer the questions that I ask. If you
 18 don't understand, let me know and I will rephrase
 19 it. If you need to take a break, let me know.
 20 It's better -- if the answer is yes, it's better
 21 to say yes than uh-huh or uhn-uh, if it's no,
 22 because then the transcript is unclear.
 23 Are you prepared to answer my
 24 questions today?

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1 Q. Okay. What medications are you
 2 currently taking?
 3 A. Warfarin and some high blood pressure
 4 medication. It's just been changed recently,
 5 last week.
 6 Q. Okay. And how many milligrams of
 7 warfarin, do you know?
 8 A. It varies. Monday, Wednesday and
 9 Friday I believe it's 10 milligrams and the other
 10 days it's 12 milligrams.
 11 Q. Did you take your warfarin today?
 12 A. Yes, I did.
 13 Q. And did you eat food today?
 14 A. I had breakfast, not lunch.
 15 Q. Okay. And what time did you have
 16 breakfast?
 17 A. Breakfast was at 4:30 this morning.
 18 Q. Then if we need to break and get you
 19 food, we'll see, but if you need to take a break,
 20 let me know.
 21 Are you under the influence of any
 22 drugs or alcohol at this time?
 23 A. No.
 24 Q. Do you understand that although no

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1 A. Absolutely, yes.
 2 Q. Okay. Your attorney has informed me
 3 that you've been considered competent to testify;
 4 is that --
 5 MR. MORRISSEY: I object.
 6 BY MS. CARROLL:
 7 Q. Well, based on the BCX that it came
 8 back and you're able to testify correctly; is
 9 that correct?
 10 MR. MORRISSEY: You can ask Mr. Roberts if
 11 he's able to testify today based on your
 12 questions, but I am not his criminal lawyer.
 13 We've spoken to Mr. Roberts' criminal defense
 14 lawyer and we were advised that -- I produced him
 15 today, so ...
 16 BY MS. CARROLL:
 17 Q. Okay. Is there anything that will
 18 prevent you from giving me your full attention
 19 today?
 20 A. No.
 21 Q. Are you under any type of medication
 22 that will affect your memory or affect your
 23 ability to tell the truth?
 24 A. No.

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8

1 judge is present, this is a formal, legal
 2 proceeding, so --
 3 A. Excuse me. Could you start that all
 4 over?
 5 Q. Okay. Even though there's no judge,
 6 this is a formal, legal proceeding. So do you
 7 understand that you're under the same legal
 8 obligation?
 9 A. Sure.
 10 Q. Okay. How did you prepare for your
 11 deposition today?
 12 A. I didn't.
 13 Q. You didn't?
 14 A. I don't need to. I've lived it.
 15 Q. Okay. Did you talk to your attorney
 16 without saying --
 17 MR. MORRISSEY: You can answer whether
 18 we've had a conversation to prepare for today,
 19 but you don't have to tell them what we
 20 discussed.
 21 THE WITNESS: I've lived it, okay?
 22 BY MS. CARROLL:
 23 Q. Did you talk to your attorney?
 24 A. Yes, I did.

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1 Q. Okay. Did you review any documents?
 2 A. No.
 3 Q. Okay. What is your age?
 4 A. I'm 68.
 5 Q. And what is your date of birth?
 6 A. .
 7 Q. And the last four digits of your
 8 Social?
 9 A. It's 109 (inaudible) --
 10 THE COURT REPORTER: I'm sorry. Can you
 11 repeat that?
 12 MS. CARROLL: Well, you know what, we'll
 13 redact the first part. You could just do the
 14 last --
 15 MS. HUFF: Could we just go off the record
 16 for a second?
 17 (Discussion off the record.)
 18 MS. HUFF: Back on the record.
 19 BY MS. CARROLL:
 20 Q. Do you have a valid driver's license?
 21 A. No.
 22 Q. Have you ever?
 23 A. Yes.
 24 Q. Okay. And when did you stop having a

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1 A. Absolutely.
 2 Q. Okay. And did you go through some
 3 type of rehabilitation program?
 4 A. Absolutely.
 5 Q. Where at?
 6 A. I went through several treatment
 7 programs. I was at J-CAP in New York. That's on
 8 Sutphin Boulevard in Queens, New York. I don't
 9 remember the program I went to in Brooklyn. I
 10 did a lot of outpatient AA and NA meetings and
 11 church.
 12 Q. Okay. What church?
 13 A. Christian Fellowship for All Nations,
 14 Uptown Baptist. I don't remember the other one.
 15 Circulation's off.
 16 Q. Are you still involved with any of
 17 those churches?
 18 A. I'm connected with Family Radio from
 19 Oakland, California. I've been doing street
 20 evangelism for 40 years.
 21 Q. Okay. Are you still married?
 22 A. Yes.
 23 Q. Okay. How long have you been
 24 married?

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1 valid driver's license?
 2 A. Over 22 years ago.
 3 Q. Was there a reason for that?
 4 A. Yeah.
 5 Q. What was the reason?
 6 A. The reason? Running from my fears,
 7 drugs.
 8 Q. Drugs?
 9 A. Yeah.
 10 Q. Okay. Did you have a drug problem at
 11 some point?
 12 A. Absolutely.
 13 Q. What kind of drug problem?
 14 A. Total crisis.
 15 Q. Okay. What drugs were you taking?
 16 A. I wasn't taking but one.
 17 Q. Which one?
 18 A. Cocaine.
 19 Q. Okay. And how long did you take
 20 cocaine?
 21 A. 40 years.
 22 Q. And when did you stop?
 23 A. About four years ago.
 24 Q. Was that prior to your incarceration?

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1 A. Good question. Close to three years.
 2 Q. Three years?
 3 A. Three.
 4 Q. Okay. And what is the name of your
 5 wife?
 6 A. Cathy Azioni (phonetic) Roberts.
 7 Q. And how long were you together before
 8 you got married?
 9 A. Approximately two years.
 10 THE COURT REPORTER: Could you spell
 11 Azioni?
 12 THE WITNESS: I don't know how to spell it.
 13 BY MS. CARROLL:
 14 Q. Okay. Do you have any children?
 15 A. Yes. I have a son Ludwig van
 16 Beethoven and I have a daughter Ionna (phonetic).
 17 Q. Can you spell Ionna?
 18 A. I don't remember.
 19 Q. Okay.
 20 A. My circulation's off.
 21 Q. Okay. Your son -- how old is your
 22 son?
 23 A. Beethoven should be about 37 right
 24 now.

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1 Q. And where does he live?
 2 A. He's in New York, Queens, New York.
 3 Q. Okay. And your daughter?
 4 A. In Queens, New York.
 5 Q. How old?
 6 A. Ionna should be about 40.
 7 Q. Okay. Were you married before?
 8 A. Yes, I was.
 9 Q. To their mother?
 10 A. No.
 11 Q. No? Who is your ex-wife's name --
 12 what was your ex-wife's name?
 13 A. Susanna.
 14 Q. You had said that your circulation
 15 was off. Can you explain that?
 16 A. I have thrombophlebitis. In other
 17 words, I throw blood clots.
 18 THE COURT REPORTER: Throw blood clots?
 19 THE WITNESS: I throw blood clots. I
 20 massaged one out of my leg this big (indicating).
 21 BY MS. CARROLL:
 22 Q. Okay. Does that affect your memory?
 23 A. It does. It affects my memory, it
 24 affects my coordination and everything.

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15

1 this place?
 2 A. Approximately two years.
 3 Q. Two years? And who did you live
 4 with?
 5 A. My fiancée Cathy.
 6 Q. Was there anyone else in the house?
 7 A. No.
 8 Q. Was it -- you said it was apartment
 9 1004. How many levels was the apartment complex?
 10 A. 22 levels.
 11 Q. And were you on the tenth floor?
 12 A. Yes.
 13 Q. Was there an elevator?
 14 A. Yes, absolutely. There's two
 15 elevators.
 16 Q. Okay. Can you tell me, the bathroom
 17 in that apartment did it have handrails?
 18 A. Yes, it did.
 19 Q. It did?
 20 A. Yes.
 21 Q. When did those handrails get put in?
 22 A. They were there when I moved in. It
 23 was handicapped accessible.
 24 Q. Okay. At some point did you live in

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14

1 Q. Okay. So will it affect your ability
 2 to testify?
 3 A. No.
 4 Q. Okay.
 5 A. If it does, I'll let you know.
 6 Q. Okay. If there's something that you
 7 don't recall, you'll let me know?
 8 A. Yes.
 9 Q. Okay. Can anyone declare you as a
 10 dependent on a federal tax form? Like do your
 11 kids --
 12 A. No.
 13 Q. Okay. Prior to your incarceration
 14 where were you living?
 15 A. I was living at -- on Broadway.
 16 Q. Broadway and what?
 17 A. I can't remember. I lived in
 18 apartment 1004. I don't remember the address.
 19 Q. Do you remember the cross street
 20 approximately?
 21 A. I can't remember.
 22 Q. Okay. Did you pay rent?
 23 A. Yes, I did.
 24 Q. Okay. And how long did you live in

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1 Pacific Garden Mission?
 2 A. Yes, I did.
 3 Q. When did you live there?
 4 A. That was -- when I first came to
 5 Chicago about 22 years ago, I joined a program,
 6 and then in the last three years.
 7 Q. In the last three years?
 8 A. In the last three years before I got
 9 incarcerated I was at the Mission.
 10 Q. Okay. Can we back up for a second?
 11 Did you live at the Pacific Garden Mission before
 12 the Broadway apartment or after the Broadway
 13 apartment?
 14 A. Both.
 15 Q. So throughout the time that you were
 16 at --
 17 A. I told you when I first came to
 18 Chicago 22 years ago --
 19 Q. Correct.
 20 A. -- I came to Chicago to join the
 21 Mission.
 22 Q. Okay.
 23 A. All right? And I got my apartment
 24 and I lost my apartment, and I returned back to

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17

1 the Mission.

2 Q. Okay. When did you lose the

3 apartment on Broadway?

4 A. Approximately I think about three

5 years ago, three and a half years ago.

6 Q. How long were you living at the

7 Pacific Garden Mission prior to your

8 incarceration?

9 A. Maybe about nine months.

10 Q. Okay. And were you living there with

11 your wife Cathy?

12 A. No.

13 Q. Where was Cathy living?

14 A. Cathy was -- she was at Cornerstone

15 and Sarah's Circle.

16 Q. When you were living at the Pacific

17 Garden Mission, are there rooms or dormitories,

18 or how does that work?

19 A. There's an auditorium and there's

20 also the dorms, the second floor, third floor

21 dorms.

22 Q. Okay. Did you have a regular set bed

23 or did you move around?

24 A. It depends upon what time I chose to

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19

1 A. No.

2 Q. No?

3 A. No.

4 Q. Were you able to use the bathroom?

5 A. Yeah. But I'm telling you I had --

6 but at that point I had my leg as well, but I

7 said I had gangrene.

8 Q. Okay. So this was prior to the

9 amputation?

10 A. Absolutely.

11 Q. Since the amputation -- let me go

12 back. Do you remember the date of the

13 amputation?

14 A. No, I don't remember the exact date.

15 Q. Okay. What about the month or year?

16 A. I don't remember.

17 Q. Approximately how many years since

18 you had your leg?

19 A. It's been over three years.

20 Q. Over three years?

21 A. Close to three years.

22 Q. Okay. Was that when you were living

23 at the Broadway apartment or when you were at

24 Pacific?

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1 get back to the Mission.

2 Q. Okay.

3 A. Sometimes I preferred to be

4 downstairs in the open area.

5 Q. Okay. Were you able to -- did you

6 have any issues --

7 A. Yes, I did.

8 Q. -- getting on to your -- please

9 explain those issues.

10 A. They moved me upstairs, because with

11 my diabetes and it was out of control, and I was

12 suffering with gangrene, all right, and they

13 moved me upstairs to the second floor and

14 assigned me a bed.

15 Q. Were the bathrooms handicapped

16 accessible at the Pacific Garden Mission?

17 A. I had my scooter. I had my scooter

18 that my church bought me.

19 Q. Okay.

20 A. All right? And I had my scooter and

21 I drive my scooter to the bathroom area. I get

22 off and do what I had to do and get back on my

23 scooter and return back to the bed.

24 Q. Were there handrails?

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20

1 A. That was at Pacific Garden Mission.

2 Q. Okay. And where did you have your

3 leg amputated?

4 A. At Weiss Hospital.

5 Q. And was it because of the gangrene or

6 was it --

7 A. Gangrene, poor circulation, yes.

8 Q. Okay. And which leg was amputated?

9 A. My right.

10 Q. And up to what point? Was it below

11 the knee?

12 A. (Indicating.)

13 Q. Okay. So it's below the knee?

14 A. Yes, it is.

15 Q. Okay. Did you get a prosthetic leg

16 when you were at Weiss?

17 A. No.

18 Q. No?

19 A. I got a prosthetic leg when I was at

20 Continental Nursing Home.

21 Q. And when were you at the Continental

22 Nursing Home?

23 A. I was there before the amputation and

24 after the amputation.

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21

1 Q. For about how long, a week, two
2 weeks, a month, two months?
3 A. I was there for an extended period.
4 I don't remember the exact amount of time though.
5 Q. Okay. I want to back up a little bit
6 and then we're going to circle back to this.
7 How far did you go in school?
8 A. 16 plus.
9 Q. Like sophomore year, junior year?
10 A. No. I said college.
11 Q. Oh, you went to college?
12 A. 16 plus.
13 Q. Okay. What college did you go to?
14 A. Let's start off at River State
15 College, Utah State University and University of
16 Washington, a Husky.
17 Q. Husky? What year did you graduate?
18 A. '73, 1973.
19 Q. Okay. And did you continue school
20 after that?
21 A. No.
22 Q. Okay. What did you do after
23 graduating?
24 A. Job developer, daycare center

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23

1 correct?
2 A. Street evangelism.
3 Q. Street evangelism. What do you mean
4 when you say "street evangelism"?
5 A. I wish I would have brought my stuff.
6 I had a list of things from Family Radio, from
7 different ministries. Also with the Jesus People
8 U.S.A., I'm a part of their organization. I
9 would go to Cornerstone which had an Outreach
10 Program. And Chris Ramsey ran the program, and
11 he would give me bibles, tracks and things like
12 that, all right, and I would go out on the street
13 and share the gospel and encourage people.
14 Q. Did you get any compensation for
15 this, monetary compensation?
16 A. People bless me, yeah, yeah.
17 Q. Okay. So --
18 A. I didn't ask for it, no.
19 Q. Not a salary. It's just like if
20 people wanted to give you money, they would give
21 you money?
22 A. Yes.
23 Q. Okay. Did you file any taxes or ...
24 A. Absolutely not.

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22

1 director, team club advisor --
2 THE COURT REPORTER: I'm sorry. You have
3 to slow down. Can you repeat that, please?
4 MR. MORRISSEY: Yes.
5 THE WITNESS: Job developer, daycare center
6 director, team club advisor. I worked for the
7 United States Federal Government, team club
8 advisor, Catholic Charities and a street
9 evangelist.
10 BY MS. CARROLL:
11 Q. And a street evangelist. Which you
12 said you've been doing for several years?
13 A. 40.
14 Q. What was your last job prior to your
15 incarceration?
16 A. I haven't worked in over 25 years.
17 Q. What was your last job prior to the
18 25 years?
19 A. New York City Yellow Cab driver,
20 Midtown Manhattan.
21 Q. When did you move to Chicago?
22 A. 22 years ago approximately.
23 Q. Okay. Have you had -- so you've had
24 no jobs since you came to Chicago; is that

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24

1 Q. No. Okay.
2 When is the last time you filed
3 taxes?
4 A. I haven't filed no taxes in over 25
5 years at least, beyond there.
6 Q. Okay. Do you have any nicknames?
7 A. No.
8 Q. Does anybody call you anything at the
9 Jail?
10 A. No. I don't allow them to.
11 Q. Okay.
12 A. Oh, yes, I'm sorry, they do.
13 Q. What do they call you?
14 A. Hallelujah Man. Hallelujah Man,
15 that's what I'm known as.
16 Q. Has anyone ever called you Wheelchair
17 Pimp?
18 A. I've called myself Wheelchair Pimp.
19 Q. Okay. Why do you call yourself
20 Wheelchair Pimp?
21 A. Because that's what I was doing at
22 the time.
23 Q. You were pimping?
24 A. Absolutely, yes, I did.

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1 Q. How long did you pimp for?
 2 A. Over 40 years.
 3 Q. So you were making some compensation
 4 but it was through pimping; is that correct?
 5 A. I was making money if that's what
 6 you're asking. Is that what you're asking?
 7 Q. Yes.
 8 A. Then keep it plain and flat to the
 9 wagon, okay?
 10 Q. Okay. So you made money pimping for
 11 about 40 years?
 12 A. Oh, yeah.
 13 Q. Okay. About how much money would you
 14 make, say, a month?
 15 A. I made over a million dollars, so, I
 16 mean, you can calculate it, okay?
 17 Q. Okay. And you were not paying taxes?
 18 A. No.
 19 Q. Okay. And where did that money go?
 20 Like how did you --
 21 A. In drugs.
 22 Q. In drugs. Okay.
 23 Have you ever filed any lawsuits
 24 prior to your incarceration at the Cook County

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27

1 other places are there liens against you?
 2 A. I don't know.
 3 Q. Okay. Do you know how any of your --
 4 your operation was paid for?
 5 A. I assume through the insurance
 6 company.
 7 Q. Okay. Did you have a separate
 8 insurance besides the Medicare or Medicaid or
 9 whatever it was?
 10 A. No.
 11 Q. Okay. Do you receive disability --
 12 did you receive disability checks prior to your
 13 incarceration?
 14 A. Yes, I did.
 15 Q. How long were you receiving
 16 disability checks?
 17 A. I don't remember.
 18 Q. Okay. Do you know approximately how
 19 much you would receive a month in disability?
 20 A. Approximately about 800.
 21 Q. Okay. And was this prior to your
 22 amputation or after?
 23 A. Long before my amputation.
 24 Q. And what was your disability prior to

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1 Jail?
 2 A. No.
 3 Q. Okay. Was there ever a lawsuit
 4 against the City of Chicago?
 5 A. No.
 6 Q. Not for unlawful arrest or anything
 7 like that?
 8 A. No.
 9 Q. That could be a different James
 10 Roberts?
 11 A. Sorry?
 12 Q. Could that be a different James
 13 Roberts?
 14 A. It's definitely a different James
 15 Roberts.
 16 Q. Okay. Do you receive Medicaid or
 17 Medicare or any other type of --
 18 A. I don't receive anything now.
 19 Q. Prior to your incarceration.
 20 A. Yes.
 21 Q. What did you receive?
 22 A. I received Medicaid -- one of them I
 23 received. I had a red, white and blue card.
 24 Q. Okay. And at Weiss or any of the

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1 your amputation?
 2 A. Thrombophlebitis.
 3 Q. Okay. And did you receive any type
 4 of SSI?
 5 A. Yes.
 6 Q. Okay. And how much were you getting
 7 for that?
 8 A. I just told you.
 9 Q. Was that a combined -- a total of 800
 10 for everything?
 11 A. (Indicating.)
 12 Q. Okay. Have you ever testified
 13 before?
 14 A. No.
 15 Q. Okay. Have you ever been sued
 16 before?
 17 A. No.
 18 Q. Have you ever signed any legal
 19 documents before?
 20 MR. MORRISSEY: Object to the form of the
 21 question.
 22 BY MS. CARROLL:
 23 Q. How about this. Have you ever signed
 24 any legal documents in a case before?

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1 A. I don't understand what you're
2 saying.
3 Q. Okay. How many other lawsuits do you
4 currently have pending?
5 A. Four.
6 Q. Okay. Can you tell me about the
7 first one?
8 A. It should be Tapia, Cook County.
9 THE COURT REPORTER: Tapia?
10 MS. CARROLL: Tapia.
11 THE WITNESS: Sheriff Tapia throwing me out
12 of the wheelchair, that's right.
13 BY MS. CARROLL:
14 Q. And when did you file that?
15 A. Just recently because I didn't
16 understand the procedure.
17 Q. And that would be 16 CV 10194?
18 MR. MORRISSEY: If you know the case
19 number.
20 BY MS. CARROLL:
21 Q. Do you know the case number?
22 A. I don't know.
23 Q. Okay. And what are you asking for in
24 that Complaint?

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1 A. I don't know.
2 Q. Are they also for being in a
3 wheelchair?
4 A. I don't know.
5 Q. Okay. Did you look at the paperwork
6 before he filled it out -- after he filled it out
7 before he sent it in?
8 A. I was so sick with oxygen deprivation
9 that in order for me to read I would have to take
10 another sheet of paper to make sure that I
11 didn't -- my vision didn't cross. So no, I
12 didn't read it.
13 Q. Okay. Because he asked for
14 \$75,000,000 in that. Is that something that you
15 had told him to put down or that he put down?
16 A. No, that's something he put down.
17 Q. Okay. So you were not expecting
18 \$75,000,000 from that --
19 A. Like I said, I was sick.
20 Q. Okay. There's another Complaint that
21 you filed that same day, 16 CV 10193, again to
22 Dr. Paul. Do you recall that?
23 A. Yeah, I definitely recall.
24 Q. And what is that about?

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1 A. I didn't fill out that paperwork.
2 Someone else did it for me. I don't know what
3 they asked for. I don't remember.
4 Q. Okay. Who filled out that paperwork?
5 A. Joseph Felton.
6 Q. F-e-l-t-o-n?
7 A. I'm not sure. I think so, yeah.
8 Q. How do you know him?
9 A. He's incarcerated upstairs on the
10 third floor.
11 Q. With you?
12 A. No. I'm on the fourth floor now.
13 Q. Were you on the third floor when he
14 filled out the paperwork for you?
15 A. Yes.
16 Q. Was he also in a wheelchair?
17 A. Yes.
18 Q. Do you know if he also has cases
19 against Cook County and the Sheriff?
20 A. I'm sure he does.
21 Q. Okay. Has he told you that he does?
22 A. Yeah.
23 Q. Okay. How many cases does he have
24 against Cook County?

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1 A. Malpractice, criminal malpractice.
2 Q. Okay. And what did Dr. Paul do?
3 A. What didn't she do.
4 Q. What didn't she do?
5 A. That's more appropriate. Number one,
6 I'm on blood thinning medication and I hadn't
7 been monitored in over a year. Okay? I'm on
8 high blood pressure medication and hadn't been
9 monitored and then denied doctor visits. And I'm
10 right there in the cell and have no accessibility
11 to any medical at all.
12 Q. Okay. Are you saying that you
13 haven't had --
14 A. Yes, I am.
15 Q. For a year you haven't had --
16 A. Hey, I'm saying I've been abused.
17 That's exactly what I'm saying.
18 Q. Okay. Are you saying that you
19 haven't had, let's see, like your vitals taken in
20 a year?
21 MR. MORRISSEY: That mischaracterizes his
22 testimony.
23 MS. CARROLL: I'm asking.
24

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1 BY MS. CARROLL:
 2 Q. What are you saying that you didn't
 3 have in a year?
 4 A. I've already said.
 5 Q. I'm asking you to be more specific.
 6 MR. MORRISSEY: If you can be more
 7 specific, Mr. Roberts.
 8 THE WITNESS: All right. Number one, okay,
 9 I go to Dr. Paul. I'm in a wheelchair. I'm
 10 carrying my prosthetic, all right? My limbs are
 11 so swollen that I got microscopic lesions and I'm
 12 asking her for help.
 13 BY MS. CARROLL:
 14 Q. Okay.
 15 A. All right? I have to lay down on a
 16 hard cement slab, okay?
 17 Q. Um-hmm.
 18 A. A hard cement slab with nothing to
 19 elevate.
 20 Q. Okay.
 21 A. All right? I've been dealing with
 22 this here issue since 1972, so I think I know
 23 something about it, all right? When my
 24 circulation is correct, I took time between about

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1 MS. CARROLL: Okay. Yes, you're getting
 2 very heated, so let's --
 3 THE WITNESS: I mean --
 4 MR. MORRISSEY: Mr. Roberts --
 5 THE WITNESS: I'm sorry.
 6 MR. MORRISSEY: We're going to take a
 7 break. Why don't we have a conversation.
 8 THE WITNESS: I'm sorry.
 9 (Break taken.)
 10 MS. CARROLL: Back on the record.
 11 BY MS. CARROLL:
 12 Q. There were some things that we'd like
 13 to readdress regarding your location prior to
 14 your incarceration. Just for clarification,
 15 because you said a few different things. Where
 16 were you living after your amputation? And that
 17 was -- was that approximately 2013?
 18 A. Say that again.
 19 Q. Were you amputated in 2013? Does
 20 that sound familiar to you?
 21 A. About three years ago?
 22 Q. I guess.
 23 A. Yeah.
 24 Q. Okay. After that you stayed at

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1 four days to write it out. I listed all medical
 2 problems. I have a list of about 30 issues that
 3 need to be addressed.
 4 Q. Okay.
 5 A. I meet Dr. Paul, AKA Hitler, that's
 6 who she is.
 7 Q. Okay.
 8 A. All right? Straight up concentration
 9 camp Hitler.
 10 Q. Okay.
 11 A. All right? And she says to me,
 12 Hello. I've never seen you before. How long
 13 have you been incarcerated? I don't know. I
 14 just got here. Okay? Being elevated
 15 circulation, oxygen clear. All right? What's
 16 your problem? I hand her a list. It's 27 items
 17 that I need addressed. She looks at me like, Are
 18 you crazy? Oh, I can only address three, and she
 19 didn't address any. All right? From then it was
 20 downhill ever since. It was a nightmare. I mean
 21 it was a sheer nightmare. This place is a
 22 nightmare. I wouldn't treat my worst enemy the
 23 way I've been treated in this place.
 24 MR. MORRISSEY: Why don't we take a break.

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1 Continental Nursing; is that correct?
 2 A. Continental and Harmony Nursing.
 3 Q. Okay.
 4 A. Harmony Rehabilitation on Foster.
 5 Q. On Foster. About how long did you
 6 stay there?
 7 A. At which place?
 8 Q. At the Continental place.
 9 A. Continental I don't remember. It's
 10 probably close to a year.
 11 Q. Okay. So do you recall the date that
 12 you were incarcerated here at the Cook County
 13 Department of Corrections?
 14 A. Yeah. Yeah.
 15 Q. What date was that?
 16 A. That was Sunday. That was Sunday,
 17 9-9-14.
 18 Q. Now, was that the date that you were
 19 arrested or the date that you were brought here?
 20 A. I was arrested -- I'm not sure. I
 21 know I was arrested on Sunday.
 22 Q. Okay.
 23 A. All right? And I came here three
 24 days later.

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1 Q. Okay. And where were you in between
2 those three days?
3 A. I was at one of the Cook County's
4 hospitals. I don't know which one.
5 Q. And what are you here for?
6 A. Attempt murder.
7 Q. Okay. Of?
8 A. My wife.
9 Q. Okay. And are you on bail?
10 A. Absolutely.
11 Q. Okay. So you were at a County
12 hospital for approximately three days and then
13 you came to --
14 A. As far as I can remember, yeah.
15 Q. Okay. I want to go over some of your
16 other cases and then we'll go into since you've
17 been here.
18 So we talked about two cases, one
19 against Tapia and one against Dr. Paul. What are
20 your other cases?
21 A. The sheriff that just been
22 walking -- escorting you guys back, against him
23 for throwing me out the wheelchair on August the
24 18th of 2016 at 5:30 when I'm coming down here to

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1 A. The one that just escorted you guys
2 in and out.
3 Q. Okay. Because you have a case
4 against a Director Reyes.
5 A. Yes, I did.
6 Q. Is that a different case?
7 A. It's the same case because he's
8 responsible. He's over Reyes.
9 Q. I don't understand what you just
10 said.
11 A. The Director is over the sheriffs,
12 okay?
13 Q. Okay.
14 A. All right? I had told you I did not
15 fill out any of this paperwork. Felton filled
16 out the paperwork.
17 Q. Okay.
18 A. Felton wrote it up the way it's
19 written up. I didn't write it up.
20 Q. Okay. And who is Sergeant Moore?
21 A. Sergeant Moore is Sergeant Moore.
22 Q. What did he do?
23 A. He sprayed me.
24 Q. What do you mean he sprayed you?

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1 see Patrick.
2 Q. And what do you mean he threw you out
3 of the wheelchair?
4 A. He threw me out the wheelchair when I
5 came off the deck to go -- waiting to go and see
6 Patrick.
7 Q. How did he throw you off of the
8 wheelchair?
9 A. He grabbed it and snatched it from
10 under me, about my wife.
11 Q. Okay. Did you end up on the floor?
12 A. Yes, I did. It's on camera.
13 Q. Okay. And is Patrick representing
14 you in that case?
15 A. No.
16 Q. Is someone else representing you in
17 that case?
18 A. I don't know.
19 Q. Okay. And what is that officer's
20 name?
21 A. Reyes.
22 Q. Are you talking about Director Reyes?
23 A. I said Officer Reyes.
24 Q. Officer Reyes?

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1 A. He sprayed me in the shower.
2 Q. What did he spray you with?
3 A. I don't know.
4 Q. All right.
5 A. I've never been sprayed before in my
6 life.
7 Q. Okay. Why did he spray you?
8 A. Because he's a fool, that's why.
9 Q. Okay. Was there anything that
10 happened right beforehand?
11 A. Absolutely not. I was housed
12 alone, out alone, amputated, no upper body
13 strength, all right, in the shower. The shower
14 is -- the seat is too low. I'm six foot eight
15 and it's on a decline. I have no upper body
16 strength. The railings were too far away, all
17 right, and he came and he sprayed me when I asked
18 to speak to Superintendent Brown, all right,
19 about the abuse that was going on and the neglect
20 that was going on with me that I grieved.
21 Q. Okay.
22 A. All right? And I got sprayed, all
23 right, all in my eyes, okay, all over my body and
24 all over my prosthetic device. I couldn't move

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1 or do anything. And then carried me down the
 2 corridor naked and stripped me of all my human
 3 dignity.
 4 Q. Okay. Do you have any other
 5 lawsuits?
 6 A. Yes.
 7 Q. What are the other lawsuits?
 8 A. Against Gavin.
 9 Q. Who's Gavin?
 10 A. Sheriff Gavin.
 11 Q. Who is Sheriff Gavin?
 12 A. I don't know who he is. I know the
 13 abuse I received.
 14 Q. What did Sheriff Gavin do?
 15 A. He threw me down at Cermak, Cermak
 16 lab. I'm going down there. I'm already
 17 bleeding. I'm hemorrhaging because of my blood
 18 thinning medication which Dr. Paul was not
 19 monitoring.
 20 Q. Okay.
 21 A. Winds up I'm hemorrhaging because of
 22 it.
 23 Q. Okay.
 24 A. All right? And Gavin in the

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1 laboratory -- I'm not -- I'm using my prosthetic
 2 at this point.
 3 Q. Okay.
 4 A. All right? This is what triggered --
 5 started this whole event with the problem with my
 6 prosthetic.
 7 Q. Okay.
 8 A. Gavin -- I'm pulling the walker
 9 because they tell me to go in. Gavin comes up in
 10 the lab, grabs the walker and snatches it, him
 11 and another white sheriff. I couldn't see his
 12 name because they snatched my glasses off.
 13 Snatches it, throws me off balance and I wind up
 14 on the floor. They got me -- I had my glasses,
 15 but at that time I had my glasses with tape
 16 around my neck, and they're choking me and
 17 dragging me and beating me and dragging me out
 18 onto the video in the area downstairs. All
 19 right? But for months I never correlated what
 20 the significance of why Gavin was abusing me.
 21 Q. Um-hmm.
 22 A. But Gavin knew my wife.
 23 Q. Okay.
 24 (Enter Deputy Sheriff.)

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1 DEPUTY SHERIFF: Are we looking for his
 2 lunch?
 3 MS. CARROLL: Yes.
 4 (Exit Deputy Sheriff.)
 5 BY MS. CARROLL:
 6 Q. Okay.
 7 A. I used to see a Sheriff's car, Cook
 8 County Sheriff's car --
 9 MR. MORRISSEY: I don't know if there's a
 10 question pending.
 11 THE WITNESS: Sorry.
 12 BY MS. CARROLL:
 13 Q. What date was this incident with
 14 Gavin?
 15 A. I don't remember. It's been maybe
 16 about 16 months ago. It was during the summer.
 17 It was spring, summer, somewhere around there.
 18 Q. Okay. So about 2015?
 19 A. I think so.
 20 Q. Okay.
 21 A. I grieved it. I know that.
 22 Q. Okay. So you're aware of the
 23 grievance process here at the Cook County
 24 Department of Corrections?

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1 A. I'm getting aware of it now.
 2 Q. Approximately how many grievances
 3 have you filed?
 4 A. Quite a few.
 5 Q. Quite a few. More than a hundred?
 6 A. Quite a few.
 7 Q. Would that be more than a hundred?
 8 A. Yes.
 9 Q. Okay. How often do you write a
 10 grievance?
 11 A. It depends upon how much negativity I
 12 run into.
 13 Q. Okay. And I'm going to ask you just
 14 for the sake of -- I know that you have high
 15 blood pressure and I know that these questions
 16 seem to be upsetting you and you're getting
 17 angry, and I need you -- I want you to calm down
 18 a little bit, you know, for your blood pressure
 19 sake, okay?
 20 Did you receive an inmate
 21 handbook? Do you remember if you received an
 22 inmate handbook?
 23 A. I've got quite a few of them.
 24 Q. Okay. So are you aware of the

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1 appellate process as well for the grievances?
 2 A. I don't understand what you're
 3 saying.
 4 Q. When you get your grievance, have you
 5 ever appealed those grievances?
 6 A. Yes.
 7 Q. Okay. And you're aware of how that
 8 works?
 9 A. Not quite, no.
 10 Q. But it's in that handbook that you
 11 received?
 12 A. No, it's not really. No, it's not.
 13 It's deleted.
 14 Q. It's deleted?
 15 A. Yes, it is.
 16 Q. Okay. Are you also aware of Health
 17 Service Request Forms?
 18 A. Yes, absolutely.
 19 Q. Okay. How many of those do you think
 20 you filed?
 21 A. Quite a few.
 22 Q. More than 200?
 23 A. Absolutely.
 24 Q. Okay. So you're aware of the process

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1 Q. Two words?
 2 A. Um-hmm.
 3 Q. Okay. Ever at Norwegian Hospital?
 4 A. Absolutely.
 5 Q. Okay. And what have you been
 6 diagnosed with?
 7 A. I had -- when I went to Norwegian, I
 8 had head trauma, poor circulation, oxygen
 9 deprivation, Alzheimer's, dementia.
 10 Q. Okay. Have you been officially
 11 diagnosed with Alzheimer's or dementia?
 12 MR. MORRISSEY: If you know.
 13 THE WITNESS: No, I don't know.
 14 BY MS. CARROLL:
 15 Q. You don't know.
 16 And does that affect your memory?
 17 A. Yes, it does. Normally under normal
 18 circumstances I have a photographic memory. Not
 19 the way I am now. I'm on total decline.
 20 Q. With the dementia, how long have you
 21 had that?
 22 A. Since I've been here in Cook County.
 23 Q. Okay. Prior?
 24 A. Yeah. With the poor circulation,

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1 for using a Health Service Request Form?
 2 A. Yeah. If they answered the request
 3 in the beginning and you not have to repeat it
 4 over and over and over and over and over again,
 5 there would be a lot less grievances and request
 6 forms.
 7 Q. Okay. Have you ever received
 8 psychiatric care?
 9 A. Absolutely.
 10 Q. And where have you received
 11 psychiatric care?
 12 A. Good question. How about Alden
 13 Lakeland.
 14 Q. Is that the same place or two
 15 different places?
 16 A. It's the same.
 17 Q. Okay.
 18 A. All right. Mid America under Dr. bin
 19 Laden (phonetic).
 20 Q. Can you spell that? Do you know how
 21 to --
 22 A. No.
 23 Q. Okay. Bin Laden?
 24 A. Laden.

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1 yes.
 2 Q. Okay. Prior to your most recent stay
 3 at the Cook County Department of Corrections have
 4 you been an inmate here before?
 5 A. No.
 6 Q. Have you ever been arrested before?
 7 A. Yes.
 8 Q. What have you been arrested for?
 9 (Enter Deputy Sheriff.)
 10 MR. MORRISSEY: Thank you.
 11 THE WITNESS: Thank you, sir.
 12 (Exit Deputy Sheriff.)
 13 BY MS. CARROLL:
 14 Q. Do you want to take a break while you
 15 eat? Will you eat something just so that I know
 16 you're okay?
 17 A. I'll eat the apple.
 18 Q. Okay. I just wanted to make sure
 19 because it's been a little while since you've
 20 eaten.
 21 When were you at Norwegian
 22 Hospital, do you remember?
 23 A. Right after I lost my apartment.
 24 Q. Okay. Do you recall when that was?

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1 A. Maybe about four years ago.
 2 Q. Okay. What were your other arrests
 3 for?
 4 A. I was arrested for assault.
 5 Q. Okay. Do you remember when that was?
 6 A. Over 30 years ago.
 7 Q. Were you arrested for battery in
 8 2003?
 9 A. Yeah. It was a lie.
 10 Q. Okay. Did you get sentenced to
 11 supervision for that?
 12 A. Sorry?
 13 Q. Did you get sentenced to supervision
 14 for that?
 15 A. No.
 16 Q. You don't recall that?
 17 A. I didn't get sentenced. The charges
 18 were dropped.
 19 Q. Well, there's a few battery arrests.
 20 Do you remember one in '03 where you got
 21 supervision?
 22 MR. MORRISSEY: Do you remember, that is
 23 the question.
 24

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1 MR. MORRISSEY: I'm going to instruct you
 2 not to talk about any potential criminal charges
 3 you have because of your Fifth Amendment right to
 4 not incriminate yourself.
 5 THE WITNESS: Thank you.
 6 MS. CARROLL: I'm not asking about that.
 7 I'm asking about the medication.
 8 MR. MORRISSEY: All right. But my client
 9 was deviating towards talking about his
 10 interaction with his wife.
 11 MS. CARROLL: Okay.
 12 MR. MORRISSEY: You can answer the question
 13 about the medication.
 14 THE WITNESS: I wasn't taking any
 15 medication.
 16 BY MS. CARROLL:
 17 Q. At Weiss. Okay.
 18 Is it possible that you were --
 19 after your arrest for the attempted murder you
 20 were at Illinois Masonic? Does that sound
 21 familiar to you?
 22 A. I don't know where I was at.
 23 Q. Okay. Were you in a wheelchair at
 24 the time?

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1 BY MS. CARROLL:
 2 Q. If you don't remember --
 3 A. I don't remember.
 4 Q. Okay.
 5 A. You sure you got the same James
 6 Roberts?
 7 Q. With that one it does appear to be
 8 so.
 9 A. The height is six foot eight? The
 10 Height is six foot eight? Because I was arrested
 11 in New York when I was driving for the United
 12 States Motor Pool, and there was a James Roberts
 13 in Florida, all right, but it wasn't me.
 14 Q. Okay. Okay. It has the same IR but
 15 maybe it's someone else. We could look into
 16 that.
 17 When you entered Cook County, were
 18 you on medication other than warfarin and --
 19 A. I had not received medication at all
 20 'cause Weiss had kicked me out of the hospital.
 21 Q. Why did Weiss kick you out of the
 22 hospital?
 23 A. Because I went to my church to get
 24 help to get Cathy and I an apartment. And --

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1 A. I had my walker.
 2 Q. You had a walker?
 3 And you had your prosthetic leg?
 4 A. Yeah.
 5 Q. Okay. And were you able to use that
 6 walker?
 7 A. Very limited, yes.
 8 Q. Okay. Did you own a wheelchair at
 9 that point?
 10 A. Absolutely.
 11 Q. Where was your wheelchair at the
 12 time?
 13 A. It was in the repair shop because the
 14 batteries were dead.
 15 Q. Okay. When you first arrived at Cook
 16 County on -- in September of 2014, do you
 17 remember which division or room you were put in?
 18 A. I was in Cermak.
 19 Q. In Cermak? 3 West?
 20 A. I don't know.
 21 Q. Okay. How long were you there?
 22 A. A month.
 23 Q. And do you remember which cell you
 24 were in or room you were in?

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1 A. I don't remember.
 2 Q. Did you keep your walker or did you
 3 get a different walker?
 4 A. No, I didn't have my walker.
 5 Q. Okay. Where was your walker?
 6 A. My walker was at Belmont and Western
 7 with the rest of my property.
 8 Q. Did they give you a walker when you
 9 got to Cook County?
 10 A. Yes.
 11 Q. Okay. And did you get a wheelchair
 12 for long distances?
 13 A. That was later.
 14 Q. Okay. You don't recall that at the
 15 very beginning you got a --
 16 A. No, I didn't. I didn't have it, no.
 17 Q. Okay. So the first time you went to
 18 court after being incarcerated did you use a
 19 wheelchair?
 20 A. I don't remember.
 21 Q. Okay. Were you able to walk short
 22 distances with your walker?
 23 A. Yes, very limited.
 24 Q. How limited?

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1 BY MS. CARROLL:
 2 Q. Can you dance?
 3 A. I sure can.
 4 Q. With your prosthetic. When was the
 5 last time you did that?
 6 A. I don't remember. I had been in the
 7 cell praising God, and the Holy Ghost came on to
 8 me and I rejoiced to my Lord and Savior. Don't
 9 get me started, oh Lord. Get me under control,
 10 Jesus.
 11 Q. Okay. So do you dance often in your
 12 cell?
 13 MR. MORRISSEY: Object to the form of the
 14 question.
 15 MS. CARROLL: I'm asking.
 16 MR. MORRISSEY: And there's a time frame.
 17 You can answer.
 18 THE WITNESS: I praised.
 19 BY MS. CARROLL:
 20 Q. You praised?
 21 A. I praised seven days a week, 365 days
 22 a year for hours.
 23 BY MS. CARROLL:
 24 Q. When is the last time that you

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1 A. About 20 feet.
 2 Q. Can you still walk short distances
 3 with a walker?
 4 A. No.
 5 Q. When did that stop?
 6 A. When my -- when the blood clot filter
 7 that's inside of me started working in reverse.
 8 Q. And approximately when was that?
 9 A. Probably about nine or ten months
 10 ago.
 11 Q. Okay. So since, let's say, March?
 12 You want to go with March of 2016?
 13 A. Go back further than that.
 14 Q. Okay. So let's say January or
 15 February of 2016 have you been able to do any
 16 walking?
 17 A. No.
 18 Q. Can you -- with your prosthetic leg
 19 could you walk?
 20 A. I could not only walk, I could praise
 21 dance.
 22 THE COURT REPORTER: You could praise
 23 dance?
 24 THE WITNESS: Praise dance, hallelujah.

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1 danced?
 2 A. It's been months.
 3 Q. How many months?
 4 A. I don't know.
 5 Q. Prior to February of 2016?
 6 A. I don't know.
 7 Q. Okay. Do you dance often?
 8 A. When the Holy Ghost comes over me,
 9 yes, if I can.
 10 Q. If you can. Okay.
 11 Do you still dance when the Holy
 12 Ghost comes upon you?
 13 A. I dance like this in my chair now,
 14 yeah (indicating).
 15 Q. Okay. So you're moving a little bit
 16 of your lower body and upper body?
 17 A. That's it, in my chair.
 18 Q. Okay.
 19 A. It's on camera.
 20 Q. I know. I'm sure you're aware that
 21 there's lots of videos of you dancing.
 22 A. (Indicating.)
 23 MR. MORRISSEY: I think that
 24 mischaracterizes the evidence produced in this

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1 case.
 2 MS. CARROLL: Okay.
 3 MR. MORRISSEY: I mean there's only one
 4 video of praise dancing.
 5 MS. CARROLL: Okay.
 6 BY MS. CARROLL:
 7 Q. I believe a lot of people have maybe
 8 witnessed you dancing in the RTU?
 9 A. Oh, yeah. Yeah.
 10 Q. Is there ever music playing or is
 11 it -- are you listening to music when you're
 12 dancing?
 13 A. I'm listening to the -- there's a
 14 praise and the worship and a oneness between me
 15 and my Lord and Savior and Jehovah God.
 16 Q. Okay.
 17 A. I have a oneness. I have a
 18 relationship.
 19 Q. Okay. Let's go back -- so you were
 20 at Cermak for approximately one month. Do you
 21 have any recollection of your time in Cermak for
 22 that one month in September to October 2014?
 23 A. Vaguely.
 24 Q. Okay. What do you remember?

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1 Dr. Paul?
 2 A. I don't know.
 3 Q. Okay.
 4 A. I have heard she's been all over the
 5 place.
 6 Q. Okay. Do you remember Dr. DeFuniak?
 7 A. Who?
 8 Q. Dr. DeFuniak.
 9 A. I don't even know who you're talking
 10 about.
 11 Q. Okay.
 12 A. Never met no Dr. DeFuniak.
 13 Q. Okay. Is it possible that you met
 14 him, you just don't remember him?
 15 A. What does he look like?
 16 Q. He is a doctor. He is --
 17 A. No, I don't remember.
 18 MR. MORRISSEY: Let her describe him.
 19 MS. CARROLL: That's okay. I don't need to
 20 describe him.
 21 MR. MORRISSEY: You can describe Dr. --
 22 MS. CARROLL: I don't need to describe Dr.
 23 DeFuniak.
 24 MR. MORRISSEY: I think Mr. Roberts wanted

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1 A. I remember having accidents on the
 2 toilet.
 3 Q. Okay.
 4 A. I remember in a room I think with six
 5 other roommates and defecation going from the
 6 toilet to -- going from the bed to the toilet and
 7 body waste all over the place and the guys
 8 complaining.
 9 Q. Okay.
 10 A. I remember that.
 11 Q. During the one month that you were in
 12 Cermak?
 13 A. Exactly.
 14 Q. Okay.
 15 A. Because I was sick. I was sick. I
 16 hadn't had no medication, and everything -- my
 17 whole system was way, way, way out of limits.
 18 Q. Did you get medication while you were
 19 at Cermak? Did the Cermak nurses give you
 20 medication?
 21 A. They monitored me, yeah.
 22 Q. Okay.
 23 A. That was before I met Dr. Paul.
 24 Q. Okay. Is she Cermak or is she RTU,

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1 clarification.
 2 THE WITNESS: I didn't hear what you said.
 3 MR. MORRISSEY: Do you want Miss Carroll to
 4 describe Dr. DeFuniak?
 5 MS. CARROLL: I'm not going to describe Dr.
 6 DeFuniak. Let's keep going.
 7 BY MS. CARROLL:
 8 Q. When the RTU opened, did you get
 9 transferred to the RTU?
 10 MR. MORRISSEY: Object to the --
 11 mischaracterizes when the RTU opened.
 12 BY MS. CARROLL:
 13 Q. When did you come to this fine
 14 building, the RTU?
 15 A. A month after I arrived.
 16 Q. Okay. So all those things that you
 17 were talking about that happened in Cermak on 3
 18 West where you were falling and defecating on the
 19 floor --
 20 A. And all over the toilet.
 21 Q. -- and all over the toilet, did you
 22 grieve at that time period?
 23 A. No. I didn't understand anything
 24 about any grievance process.

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1 Q. What about the Health Service Request
2 Form, did you do that at the time?
3 A. They don't have them at Cermak.
4 Q. Okay. Were you telling the doctors
5 that that's what was happening to you?
6 A. I think I saw a doctor over there
7 once.
8 Q. Okay. Did you tell the doctor?
9 A. I don't remember telling him, no.
10 Q. Okay. Did you tell the nurses that
11 that was what was happening?
12 A. I was not cognitive enough to tell
13 them.
14 Q. Have you ever been diagnosed with
15 issues with your bladder?
16 A. Yeah, I've had bladder problems.
17 Q. For how long?
18 A. Extended.
19 Q. Okay. Do you currently?
20 A. At times.
21 Q. Okay. Have you been given diapers or
22 given any catheter or anything?
23 A. I haven't had no catheter, but yeah,
24 diapers, yes.

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1 were in?
2 A. Yeah, I believe I was in Cell 3
3 first.
4 Q. Okay. Do you remember how long you
5 were in Cell 3?
6 A. One day.
7 Q. Okay. And then do you remember where
8 you got transferred to?
9 A. Yeah, because the Department of
10 Justice transferred me.
11 Q. The DOJ transferred you? How do you
12 know the DOJ transferred you?
13 A. Because they were here, all right,
14 and I had just had an accident and diarrhea all
15 over the cell, and they showed up and they were
16 my life preserver.
17 Q. Okay. And is that when you got moved
18 to 3E, Cell 10?
19 A. Um-hmm.
20 Q. Yes?
21 A. Yes.
22 Q. Okay. And what is Cell 10 like? Is
23 it different than the other rooms, the other
24 cells?

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1 Q. How long have you been on diapers?
2 A. I'm not on diapers now.
3 Q. Okay. But were you at some point
4 since being here at the Department of
5 Corrections?
6 A. Yeah, I was -- I wouldn't -- I
7 wouldn't describe that, but the nurses brought me
8 diapers because I needed them.
9 Q. Okay. Was that here in the RTU or
10 was that in Cermak?
11 A. That was here.
12 Q. In the RTU? Do you remember if that
13 was on the third floor or fourth floor or both?
14 A. (Indicating.)
15 Q. Third floor or fourth floor or both?
16 A. Third floor.
17 Q. Okay. Ever in the fourth floor, or
18 no?
19 A. No.
20 Q. Okay. So when you first transferred
21 to the RTU, do you remember what tier you were
22 on?
23 A. No.
24 Q. Okay. Do you remember which cell you

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1 A. It has a rail by the toilet.
2 Q. Just one or two?
3 A. It has two.
4 Q. Two?
5 Are you able to use the toilet in
6 Cell 10?
7 A. Yes and no, depending upon my medical
8 condition.
9 Q. Okay. So sometimes you can't use the
10 rails because of your medical condition?
11 A. Exactly.
12 Q. What --
13 A. I have trouble.
14 Q. What type of medical condition are
15 you talking about?
16 A. Poor circulation, oxygen deprivation
17 and losing balance.
18 Q. Okay. So would that cause you not to
19 be able to get on -- use the handrails?
20 A. Yeah, because depends upon which side
21 of the Jail I'm on. I'm right-handed, but the
22 way they got it designed it's for a left-handed
23 person. All right? And then if I'm not
24 receiving enough oxygen to my brain, my balance

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1 is all off and I've fallen. I've had to have the
 2 sheriffs -- Sheriff Clark and Sheriff Sandoval
 3 actually save me, you know, in a dark cell
 4 because I can't see.
 5 Q. Okay.
 6 A. The diabetes is poor circulation and
 7 affects my eyes.
 8 Q. Okay. You said something about you
 9 have glasses. I don't see you wearing them now.
 10 Are they just on your -- they're around your
 11 neck?
 12 A. Yes, right here. Right here
 13 (indicating).
 14 Q. Oh, okay. I see them now.
 15 MR. MORRISSEY: I need to take a break.
 16 (Break taken.)
 17 MS. CARROLL: We're back on the record.
 18 BY MS. CARROLL:
 19 Q. There was just a little break. We
 20 allowed you to have some food. Are you feeling
 21 better I hope?
 22 A. Yeah.
 23 Q. Okay. I need to ask you something
 24 based on what you had said prior to the break.

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1 to understand?
 2 A. I'd like you to repeat what you just
 3 said because you're slurring.
 4 Q. Am I slurring? Okay.
 5 Were there any questions that I've
 6 asked you so far that you did not understand what
 7 I was asking?
 8 A. No, I really don't think so.
 9 Q. Okay. When you said I was slurring,
 10 what do you mean by that?
 11 A. I'm talking about my hearing problem.
 12 Q. Your hearing problem. Okay. Let's
 13 discuss that.
 14 What is your hearing problem?
 15 A. I have nerve damage in both my ears.
 16 Q. Both?
 17 A. Yes.
 18 Q. Okay.
 19 A. One is more severe than the other.
 20 Q. Which is the more severe ear?
 21 A. My right.
 22 Q. And have you been diagnosed with
 23 nerve damage in both of your ears?
 24 A. At Stroger Hospital, yes, and also at

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1 Have you been officially diagnosed
 2 with Alzheimer's here in the Cook County
 3 Department of Corrections?
 4 A. I think Dr. bin Laden (phonetic)
 5 could answer that question better than I can.
 6 Q. Okay. And was bin Laden at Stroger?
 7 A. No.
 8 Q. Where was she again?
 9 A. Not she, he.
 10 Q. He.
 11 A. What's that hospital? It's on
 12 Lawrence and Clark.
 13 Q. Is that Weiss?
 14 A. No, it's not Weiss, not Weiss.
 15 Q. Swedish Covenant?
 16 A. No. I can't remember.
 17 Q. Okay.
 18 A. But he was at Alden -- Mid America.
 19 Q. Mid America?
 20 A. Yeah.
 21 Q. Okay.
 22 A. He has a practice there.
 23 Q. Okay. Have there been any questions
 24 that I've asked you that you have not been able

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1 Cermak.
 2 Q. And how does that affect your daily
 3 living?
 4 A. If I'm in the cell, it's fine. If
 5 I'm out of the cell, it's hell.
 6 Q. Why is it hell?
 7 A. It makes cross talking, loud TV, loud
 8 radio and clashing, and shutting down my
 9 circulation.
 10 Q. Okay.
 11 A. Anxiety. All that.
 12 Q. Anxiety?
 13 A. Yeah.
 14 Q. Okay. So would you say it's like an
 15 overstimulation issue?
 16 MR. MORRISSEY: Objection.
 17 MS. CARROLL: I'm asking.
 18 BY MS. CARROLL:
 19 Q. Like when there's a lot going on
 20 around you, that's when your hearing gets
 21 affected?
 22 A. It's like confusing. It's like
 23 chaos.
 24 Q. Okay. Have you been able to hear

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1 everything that I have said today?

2 A. I've asked you to repeat quite a few

3 things.

4 Q. Okay. Aside from that have you heard

5 everything I've said today?

6 A. Reasonably, yes.

7 Q. Okay. Does it affect your ability to

8 have a conversation in a small room like we're in

9 now with a few people?

10 A. That would bother me.

11 Q. That would bother you?

12 A. Yes, it would.

13 Q. Why?

14 A. Because of, number one, clarity,

15 things being muffled and distorted.

16 Q. Okay. What about the phone, are you

17 able to talk on the phone?

18 A. Depending.

19 Q. What does it depend on?

20 A. The connection and how loud the phone

21 is.

22 Q. Okay. Is there a way to make the

23 phone louder?

24 A. There's a button on the side of the

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1 understand, no.

2 Q. What do you mean you didn't

3 understand?

4 A. I didn't understand because it was

5 all distorted.

6 Q. What he was saying?

7 A. Yes. It was distorted.

8 Q. Did you tell him that?

9 A. Yes. In fact, I hadn't even

10 recognized his voice it was that distorted.

11 Q. Okay. So did you end those

12 conversations or did you continue to tell him you

13 were having trouble understanding him?

14 A. I tell him I'm having trouble, and

15 he'd tell me to call him back and try to get

16 another line.

17 Q. Would you call on another line and be

18 able to reach him?

19 A. I wouldn't be able to get through

20 because Cook County is nonsense.

21 Q. Okay. Did you ever get through and

22 have a conversation with him?

23 A. Yeah. In fact, if I got through, we

24 would wind up praying.

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1 phone.

2 Q. Have you ever been unable to hear

3 someone on the other side of the phone?

4 A. Quite a few times.

5 Q. Okay. How often do you make phone

6 calls?

7 A. It depends. If I'm -- because I --

8 excuse me. I only reach my family and my other

9 attorney.

10 Q. Okay.

11 A. And I try sometimes twice a day if I

12 can't reach my brother.

13 Q. Okay. So would you say do you call

14 your brother about every day or every other day?

15 A. No. I call him when there's a need

16 to call him.

17 Q. Okay. Do you understand what he's

18 saying on the phone?

19 A. Sometimes no.

20 Q. Okay.

21 A. All right? Like when he was sharing

22 with me about his daughter dying, I didn't

23 understand. When he was sharing with me about my

24 two -- my niece and nephew dying, I didn't

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1 Q. Okay. Have you seen -- you said that

2 you saw doctors at Stroger and Cermak for your

3 hearing?

4 A. Yeah, a year apart.

5 Q. A year apart.

6 Do you remember their names?

7 A. No.

8 Q. Okay. What they looked like?

9 A. Both were females.

10 Q. Okay. Do you see a regular ENT?

11 A. No.

12 Q. Have you ever?

13 A. About 14 months ago and about a month

14 ago.

15 Q. And what is -- do you remember the

16 name of the doctor?

17 A. No.

18 Q. Male or female?

19 A. Female, both.

20 Q. Both?

21 And the time that you saw the ENT

22 a month ago, was it a full examination?

23 A. No. No. It was basically retaking

24 of history because the time process had read out

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1 and they had deleted my files, or something like
2 that, or it was in the archives and they didn't
3 retrieve it. So it was just a retaking of
4 history.

5 Q. Okay. Have you ever been told that
6 you need a hearing aid?

7 A. Yes.

8 Q. When?

9 A. 16 months -- 14 to 16 months ago.

10 Q. Who told you you needed a hearing
11 aid?

12 A. At Stroger Hospital Ear, Nose and
13 Throat Clinic.

14 Q. Did they specifically use the words
15 that you needed a hearing aid?

16 A. I don't remember.

17 Q. Okay. Did they tell you they were
18 going to give you a hearing aid?

19 A. They told me that Stroger Hospital
20 didn't have access to it, but that Dr. Paul would
21 have to put that in play.

22 Q. Okay. Did you ever get a hearing
23 aid?

24 A. No.

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1 Q. Okay. Did you have any issues on
2 Cell 6?

3 A. Yes.

4 Q. What were your issues?

5 A. Officer Clark had to save me from and
6 keep me from falling.

7 Q. Okay. Why were you falling?

8 A. Because Cell 6 has no rails, no bars,
9 no safety, and I managed to get to the toilet and
10 I couldn't get up. And I was trying to get up
11 and he had to come and stop me from falling, to
12 break my fall.

13 Q. Okay.

14 A. And helped me get back to my bed.

15 Q. Okay. Was that nighttime?

16 A. About 3:00 o'clock in the morning.

17 Q. 3:00 in the morning?

18 And you said you have issues when
19 it's dark?

20 A. Yes. Yes.

21 Q. Okay. Have other officers come to
22 help you?

23 A. Officer Sandoval in 3A, Cell 10. All
24 right? No rails or anything by the bed, poor

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1 Q. When you went to see the doctor a
2 month ago, did they tell you you needed a hearing
3 aid?

4 A. I had an infection in my ear and I
5 was prescribed medication. And I was supposed to
6 be doing a follow-up visit which I haven't
7 arrived at yet.

8 Q. Okay. What kind of medication?

9 A. I don't know what it was. It's some
10 kind of ear drop.

11 Q. Okay. Have you been given -- have
12 you had your ears cleaned since being at the Cook
13 County Department of Corrections? Have you had
14 your ears cleaned, professionally cleaned by a
15 doctor?

16 A. No.

17 Q. What about the ear wax removal drops?

18 A. I had got that here at Cook County.

19 Q. Okay. Let's go back a little bit to
20 the different cells.

21 At some point in 2014 you were in
22 Cell 6 on I believe it was 3E. Do you remember
23 Cell 6?

24 A. Oh, I remember Cell 6 very well.

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1 circulation, oxygen deprivation, and I'm falling.

2 Q. Did you have the prosthetic at the
3 time?

4 A. I don't remember, but I know he had
5 to help me to keep me from falling.

6 Q. Okay.

7 A. And he used to have to bring a
8 sanitizer and cleansers just about every other
9 day when he worked to clean up my cell -- for me
10 to clean up the cell.

11 Q. Okay.

12 A. Clark had to do the same thing, and
13 he had to get the sanitation crew to come in and
14 sanitize and clean my cell more than one
15 occasion.

16 Q. Because you had accidents?

17 A. Yes.

18 Q. Okay. Did you request to go back to
19 Cell 10 at some point?

20 A. No.

21 Q. Have you ever requested to be in Cell
22 10?

23 A. No. There's no requests in here. I
24 am incarcerated. I'm a pre-trial detainee with

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1 no rights, no.

2 Q. Through a grievance or a Health

3 Service Request Form did you ask at any point to

4 go back into Cell 10?

5 A. No.

6 Q. Okay. What happened with your

7 prosthesis?

8 A. A better question than that is, what

9 happened with my lower limb extremity.

10 Q. Okay. What happened with your lower

11 limb extremity?

12 A. All right. I told you I have a

13 filter inside of me that started working in

14 reverse which has caused severe swelling in both

15 my lower extremities, microscopic lesions, okay,

16 and not being able to put it on.

17 Q. So you were not able to put -- are

18 you saying that because of the issues you were

19 not able to always put on your prosthetic leg?

20 A. I can't wear it.

21 Q. Okay.

22 A. I'd love to wear it. I'd love to

23 right now get up and praise dance for you.

24 Q. Were you given by -- do you remember

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1 spray from the Jail?

2 A. Yeah, I sure do.

3 Q. Okay. Do you remember when you

4 started having hearing issues? Was that at the

5 Jail or prior to being at the Jail?

6 A. Being here.

7 Q. Okay. With your swelling did you

8 have swelling issues prior to coming to the Jail

9 or since being at the Jail?

10 A. Since being here. Since being thrown

11 down.

12 Q. Which time?

13 A. How about all of the times. Because

14 every time -- in 1972 when I first developed

15 thrombophlebitis, it was after a motorcycle

16 accident. Oil slick. And the whole weight of

17 the bike, and my leg went like this (indicating).

18 All right? And every time I fall, I always -- my

19 legs swell up. And then they put a filter in me

20 and it hasn't been working in 26 years, at

21 Jamaica Hospital.

22 Q. At Jamaica Hospital?

23 A. At Jamaica Hospital.

24 Q. And that's in Queens, right?

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1 the name Dr. McCarthy? Does that name sound

2 familiar to you?

3 A. Yes, I remember Dr. McCarthy.

4 Q. Do you remember her giving you

5 special socks and insoles so that your prosthesis

6 would fit better?

7 A. Um-hmm.

8 Q. Okay. Did you wear the prosthesis

9 after that?

10 A. Very limited, yes.

11 Q. How limited?

12 A. Maybe for about two and a half weeks.

13 Q. And then what happened?

14 A. Swelling severe, calcium deposit.

15 Q. Okay.

16 A. Nerve damage.

17 Q. Have you ever had problems smelling

18 with your nose?

19 A. Yes.

20 Q. What's that problem?

21 A. Sorry?

22 Q. What was wrong with your nose?

23 A. I can't answer that.

24 Q. Okay. Do you remember getting nose

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1 A. Yes, Queens, New York.

2 Q. Have you ever had your filter fixed?

3 A. No. Cook County won't do it. They

4 don't let me see an expert.

5 Q. Okay.

6 A. They're denying me all my rights.

7 Q. Did you ever try to get your filter

8 fixed in 26 years?

9 A. It wasn't bothering me until I came

10 here and being thrown down.

11 Q. Okay.

12 A. And developing all these blood clots.

13 Q. Now, in your Complaint that started

14 this case it states that you have fallen several

15 times, suffered several injuries including

16 chipped teeth. When did you chip your teeth?

17 A. About 14 or 16 months ago.

18 Q. Can you explain what happened that

19 led to that?

20 A. Dark cell, poor circulation, and I

21 fell in the morning.

22 Q. In the morning?

23 A. Um-hmm.

24 Q. Were you trying to use the toilet or

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1 were you just --
 2 A. I was by the toilet.
 3 Q. Were you trying to use it or just
 4 used it or --
 5 A. I was trying to get to it. I
 6 asked -- I grieved -- I asked 'em to change the
 7 light in my cell because of my medical. Give me
 8 a separate light switch because of my medical
 9 condition. Denied, denied, denied, denied,
 10 denied.
 11 Q. Did you have a cellie at the time?
 12 A. No.
 13 Q. Okay. How often do you have cellies?
 14 A. I don't have a cellie at all.
 15 Q. Okay. When you said you were by the
 16 toilet, were you about to use the toilet or you
 17 just happened to be near the toilet?
 18 A. No. I was trying to go to the
 19 toilet.
 20 Q. Okay. And do you remember which cell
 21 you were in?
 22 A. 10.
 23 Q. You were in Cell 10. Okay.
 24 Do you remember if it was

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1 A. Yeah, I had a tooth extracted. Had a
 2 wisdom tooth extracted.
 3 Q. Any other time?
 4 A. Yeah. I just went to the dentist I
 5 think it was about a week and a half, two weeks
 6 ago because of severe swelling in my jaw,
 7 extremely sensitive.
 8 Q. Okay. Now, besides the chipped teeth
 9 and -- have you ever suffered any physical
 10 injuries from any of these falls?
 11 A. Yeah, I did. And the only problem
 12 with that is I was refused medical attention.
 13 But OPR came and they investigated in Cell 10,
 14 3A. I was on the bed and they saw me
 15 hemorrhaging and said they're giving me medical
 16 attention. And that was just a spin to get what
 17 they needed from me, and they left me the same
 18 way, abandoned, denied.
 19 Q. Did you injure yourself?
 20 A. I had been thrown down by Gavin.
 21 Q. Oh, that's the time that you were
 22 thrown down by Gavin?
 23 A. Absolutely.
 24 Q. Okay. So you didn't actually fall?

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1 3A or 3E?
 2 A. No, sorry, it wasn't 10. It was Cell
 3 7 and it was 3A.
 4 Q. Did anyone find you after you fell?
 5 A. The medical staff and the sheriff.
 6 The sheriff and medical.
 7 Q. And what happened?
 8 A. Went to the dentist a few days later.
 9 There's a three year waiting list to get to the
 10 dentist.
 11 Q. And you got three days later?
 12 A. I went to the dentist three days
 13 later, yes.
 14 Q. Do you remember if it was a male or a
 15 female dentist?
 16 A. I don't remember.
 17 Q. What did the dentist do?
 18 A. Fixed the broken teeth.
 19 Q. Okay. And have you seen the
 20 dentist -- did you see the dentist before that
 21 had happened?
 22 A. That was my first dental experience
 23 at Cook County.
 24 Q. And have you seen a dentist since?

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1 A. I was thrown down.
 2 Q. You were thrown down. Okay.
 3 A. The walker was snatched from me.
 4 Q. Okay. So of the nine times --
 5 A. How about close to 11.
 6 Q. Close to 11 now?
 7 A. It was close to 11.
 8 Q. When were the last two times?
 9 A. I don't remember exactly, but I know
 10 it was close to 11 -- 9 to 11 times.
 11 Q. Okay.
 12 A. I grieved it all. I also put in
 13 medicals.
 14 Q. Okay.
 15 A. It's all there.
 16 Q. So of those times one of them was the
 17 time with Gavin?
 18 A. Yeah.
 19 Q. Was there any other time that you
 20 were thrown down, or were the others falls?
 21 A. With Tapia on the third floor.
 22 Q. Okay.
 23 A. With Reyes August 18th, 2016, 5:30
 24 p.m.

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1 Q. Okay.

2 A. Fourth floor.

3 Q. Have you ever -- I'm sorry. So you

4 wrote a grievance about falling out of your

5 chair. Have you ever fallen out of your chair

6 just by being in your chair, or was it the time

7 that you were thrown out when you were snatched

8 from your --

9 A. That's an ambiguous question.

10 MR. MORRISSEY: I object to the form of the

11 question. You can answer it if you can.

12 BY MS. CARROLL:

13 Q. Let me rephrase.

14 Have you ever fallen out of your

15 wheelchair?

16 A. Willfully? Is that what you're

17 asking me?

18 Q. On your own.

19 A. Well, I'm asking you to make plain

20 what you're saying because it's ambiguous what

21 you're saying.

22 Q. Have you ever just been sitting on

23 your wheelchair and fallen off of your

24 wheelchair?

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1 until it was addressed because I had been asking

2 them for months to get that man away from me.

3 Q. Okay. Which man is this?

4 A. Huh?

5 Q. What is his name?

6 A. Cross, sorry. Cross.

7 Q. Okay.

8 A. I don't know his first name.

9 Q. Okay. So --

10 A. But the cartel -- the Cross Cartel,

11 from Indiana to Illinois, I sold drugs for them.

12 All right? Cross --

13 MR. MORRISSEY: I don't think there's a

14 question pending, okay?

15 THE WITNESS: Thank you, man. Thanks, man.

16 BY MS. CARROLL:

17 Q. I guess I hadn't realized that you

18 had sold drugs too. I knew you did drugs.

19 A. Man, listen, if you in the activity,

20 you in the activity.

21 Q. Okay. Now, you wrote a grievance

22 once, and if you want, I could show it to you,

23 but I'm going to ask right now about inmates

24 using parts of their wheelchairs as weapons. Do

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1 A. Yeah, I did that.

2 Q. When was that?

3 A. At about 3:30 in the morning I'm at

4 the nurses' station, and a sheriff comes on the

5 tier that I used to sell drugs for his family --

6 Q. Um-hmm.

7 A. -- and started a bunch of nonsense.

8 And they were gonna remove me, and they weren't

9 gonna remove me. No, they weren't gonna remove

10 me because I asked that man -- that I grieved it

11 that that man should stay away from me.

12 Q. Okay.

13 A. All right? He's a drug enforcer and

14 he works here at Cook County, and I used to give

15 him money. Yes, I stayed there until the

16 sergeant came to address the issue. Corruption

17 in this damn place.

18 Q. But you fell? I don't understand

19 when you fell in --

20 A. I'm saying that they were gonna drag

21 me and I refused to go.

22 Q. So you purposefully --

23 A. I turned around and slid myself off

24 that chair on purpose. I refused to be locked up

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1 you remember that?

2 A. No, I don't remember that. May I see

3 it?

4 Q. Yes. We'll mark this as Exhibit No.

5 1.

6 (Deposition Exhibit No. 1,

7 Witness Roberts, was marked

8 for identification

9 12/09/2016.)

10 Is this your grievance?

11 MR. MORRISSEY: Take your time and read it.

12 BY MS. CARROLL:

13 Q. And does this look familiar to you?

14 A. Yeah.

15 Q. Is this your handwriting or someone

16 else's?

17 A. It's mine, no question.

18 Q. Okay. And that's your signature?

19 A. Yeah.

20 Q. And that's from March 14, 2015?

21 A. In fact, it's the same guy that did

22 all that lawsuit nonsense for me, the 50,000,000

23 and -- Joseph Felton.

24 Q. Oh, so Felton wrote this, not you?

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1 A. I wrote this.

2 Q. Oh, you wrote this?

3 A. I wrote it because Felton came at me

4 with the armrest.

5 Q. Oh, Felton is the one who came at you

6 with the armrest?

7 A. With the armrest at 4:30 in the

8 morning at medication.

9 Q. Okay.

10 A. I wrote it against him.

11 Q. Okay. I'm having trouble reading

12 this. What were you saying in this?

13 A. I was on my walker, all right? I was

14 using my prosthetic. Felton turned around and

15 played a con game on me, and him and I got into a

16 disagreement about \$15 that he owed me. And he

17 came out -- first I was let out because Cell 10

18 doors are -- that's the way I was going. I came

19 out for my medication. I was going back to the

20 cell with my walker, and Felton takes the armrest

21 off the wheelchair and is swinging at me with the

22 armrest. And I had to lift my walker up to block

23 the armrest from hitting me and being struck by

24 Felton. That's why that grievance is there.

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1 A. All over the -- all the divisions.

2 Q. Okay. But you've never done that?

3 A. No, not when I know I'm gonna throw a

4 blood clot. The first issue with blood clots I

5 had was in my lungs.

6 Q. Okay.

7 A. All right? That's like someone

8 taking a shotgun and blowing your chest out or a

9 butcher knife and stabbing you. No. No. I'd be

10 a fool to do something like that.

11 Q. Okay. Now, do you remember falling

12 on March 15th, 2015?

13 A. I don't know.

14 Q. Okay.

15 A. I don't remember.

16 Q. Do you remember falling on April 5th,

17 2015?

18 A. Do you have more details than what

19 you're just doing right now? I mean 'cause like

20 that's nothing what you're doing.

21 Q. I'm just asking. Based on the

22 medical records there was a fall on that day.

23 A. I don't remember.

24 Q. Okay.

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1 Q. Now, you say something that says,

2 "Inmates are falling out of wheelchairs for law

3 suits on purpose."

4 A. Yeah.

5 Q. What does that mean?

6 A. A lot of guys deliberately do that.

7 They deliberately want to set up Cook County for

8 a lawsuit. I'm not about that.

9 Q. Have you witnessed that personally?

10 A. Yeah, I watched it. I watched it and

11 I've heard the inmates tell me that I should do

12 it. I know better than to do it especially with

13 my medical condition.

14 Q. Which inmates have you --

15 A. It doesn't matter.

16 Q. No, I'm asking. Which inmates told

17 you that?

18 A. It doesn't matter. It doesn't

19 matter.

20 Q. Okay.

21 A. I respect that that's their choice,

22 that that's not my business.

23 Q. Okay. So that's something that's

24 done on the RTU?

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1 A. I have to see my writing and then I'd

2 be able to tell you.

3 Q. Okay. Now, how long do you think you

4 would go without seeing a medical doctor? Have

5 you ever had problems not seeing a medical

6 doctor?

7 A. Over nine months.

8 Q. You've gone over nine months without

9 seeing a doctor?

10 A. Absolutely.

11 Q. And during that time did you see

12 nurses?

13 A. I see nurses seven days a week.

14 Q. Okay.

15 A. Three times a day.

16 Q. Now, what's the difference between

17 Cell 10 in 3E versus 3A?

18 A. They're the same except the grab bar.

19 Q. And which one has the grab bar to the

20 right side of the toilet?

21 A. 3A has it to the right.

22 Q. And is that the one that's better for

23 you or worse for you?

24 A. It's half and half, because with the

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1 poor lighting 3E is better for me because the
 2 security lights from the outside come into the
 3 cell and makes it a little easier for my
 4 visibility.
 5 Q. Okay.
 6 A. Because they won't change the fixture
 7 and give me a separate light switch because of
 8 what other guys have done setting the place on
 9 fire.
 10 Q. People have set the place on fire?
 11 A. Division 10 and the other divisions
 12 had separate light switch at one point, but the
 13 inmates would turn around and spark them and
 14 started fires, so I'm being discriminated against
 15 because of what somebody else did.
 16 Q. Okay. Do you remember having an
 17 altercation with someone in June of 2015?
 18 A. How many days are in that month?
 19 Q. Did you have many altercations?
 20 A. I don't remember. I mean that's why
 21 I'm asking you, because what you're telling to me
 22 is very vague.
 23 Q. Well, do you remember -- how many
 24 altercations have you gotten into with inmates

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1 nurse, an altercation with a nurse?
 2 A. No. I spoke my mind.
 3 Q. What do you mean?
 4 A. Just what I said, I spoke my mind.
 5 Q. Did you call her a bitch?
 6 A. No, I don't call anybody a bitch.
 7 Q. Okay.
 8 A. That's not a part of the pimp's game.
 9 Q. Okay. At some point did you get a
 10 new prosthetic leg?
 11 A. Yes.
 12 Q. When did you get the new prosthetic
 13 leg?
 14 A. Last year.
 15 Q. Okay. And how long did you use that
 16 prosthetic leg?
 17 A. Until I couldn't use it any longer.
 18 Q. And when was that?
 19 A. I don't remember. It was a few
 20 months after. Because I was supposed to go back
 21 to have it adjusted and Dr. McCarthy declined to
 22 have it adjusted. They made me the first
 23 prosthetic at 401 Harris. I was able to praise
 24 dance, and the prosthesis breaks right there in

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1 since being at the CCDOC?
 2 A. Actually maybe like three.
 3 Q. Three?
 4 Was one of them with Felton?
 5 A. I just told you, yes. I grieved it.
 6 Q. Okay. What were the other two?
 7 A. I don't remember.
 8 Q. Okay. Now, have you been given
 9 special classes like yoga and art therapy?
 10 A. That just started. Art therapy --
 11 yes, art therapy has been going on for awhile.
 12 Q. And yoga?
 13 A. Yes, that just started.
 14 Q. Okay.
 15 A. What about -- what about --
 16 MR. MORRISSEY: There's no question
 17 pending.
 18 THE WITNESS: Thanks.
 19 BY MS. CARROLL:
 20 Q. Now, do you know who Nurse
 21 I-m-a-n-l-i-n-h-e-n is, Imanlinhen? Does that
 22 sound familiar?
 23 A. I don't know.
 24 Q. Have you ever had issues with a

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1 the office. I had to sit and wait with the
 2 sheriffs for five hours for them to make me a new
 3 one. And the person that made it told me to come
 4 back in two weeks. Dr. McCarthy refused to let
 5 me go back.
 6 Q. And this was last year?
 7 A. Whatever date it was that they made
 8 the prosthetic, yes. Because at that same time
 9 I put my old prosthesis in Property.
 10 Q. Okay. So have you had a prosthetic
 11 limb since?
 12 A. I got a prosthetic upstairs now, the
 13 original one that I came in here with. I can't
 14 use it.
 15 Q. I thought you said you put it in
 16 Property. Did you get it back?
 17 A. I put the old one in Property, yes.
 18 Sabrina had to bring it back. ADA had to bring
 19 it back.
 20 Q. When did she bring it back?
 21 A. A few months ago, but I can't use it.
 22 Q. Why can't you use it?
 23 A. Because there's severe swelling.
 24 Q. Okay.

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1 A. They're gonna have to make me another
2 one. If they'd addressed my issues right, they
3 wouldn't have to go through these nonsense.
4 Q. Okay. When is the last time you used
5 your prosthetic leg?
6 A. When Sabrina went and got it out of
7 Property. I think that was about three months
8 ago or longer. I went to court that day and she
9 met me downstairs in the bullpen area.
10 Q. Okay. Let's switch over to court.
11 How often do you go to court?
12 A. That depends upon whether or not they
13 wanna bullpen me.
14 Q. What do you mean by that?
15 A. Bullpen therapy. Promise you
16 something and violate your rights.
17 Q. Okay. Do you go to court
18 approximately once a month?
19 A. No.
20 Q. Last time?
21 A. The last time I went to court was
22 approximately about three months ago.
23 Q. Okay. Which courtroom are you
24 assigned?

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1 A. I learned to bring my own toilet
2 paper --
3 Q. Okay.
4 A. -- because they don't have it in the
5 bullpens, nor soap.
6 Q. And I saw that you have -- do you
7 bring soap?
8 A. I was bringing soap, yes.
9 Q. Okay. And it looks like a handheld
10 catheter type of bottle?
11 A. I've got three of 'em.
12 Q. You have three of them? And did you
13 bring those to court?
14 A. All the time.
15 Q. Okay.
16 A. 'Cause my medical problems.
17 Q. Okay. Does your medical problems
18 cause you to use the bathroom more frequently or
19 less frequently?
20 A. It depends upon -- it depends upon my
21 sugar level, my blood flow level.
22 Q. Okay. What is the procedure you use
23 when going to court in order to use the bathroom?
24 A. Bowel movement, urinal. I go into

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1 A. I'm assigned Judge Nicholas R. Ford,
2 702.
3 Q. Are you in a wheelchair every time
4 you go to court?
5 A. Yes.
6 Q. Is that the same wheelchair that
7 you're using right now?
8 A. No.
9 Q. What's the difference?
10 A. Harvey, he said I had his wheelchair.
11 It was a smaller chair than this. It was a much
12 smaller chair. But Harvey's like five foot
13 something, and this chair was too big for him, so
14 him and I exchanged chairs.
15 Q. Harvey is the last name or first
16 name?
17 A. It's his last name.
18 Q. Okay. The wheelchair that you use
19 for court, does it have toilet paper on it? Do
20 you have -- right now you have toilet paper
21 attached?
22 A. Um-hmm.
23 Q. Does the wheelchair you use when you
24 go to court have toilet paper attached?

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1 the disabled part and use the urinal. I dump it
2 out, wash it out with water and place it back.
3 Q. Okay. Where do you go? Is that
4 Bullpen 34 or 5, or do you know what it's called?
5 A. They've changed it all around because
6 I'm administrative.
7 Q. Okay.
8 A. I'm administrative, I'm protective
9 custody and I'm also disciplinary. I don't
10 understand how I'm all three of those at the same
11 time, but I am.
12 Q. Okay. So are you -- you're housed
13 alone in a bullpen in the lower level of
14 Leighton?
15 A. I was in RDC at first in the
16 accessible bullpen. Then they started moving me
17 around to where new inmates come in, they're
18 still in their street clothes, and the bullpen --
19 the bullpen has no toilet. It has nothing. The
20 toilets are broken over in that area. So then
21 they turned around now and I go downstairs to the
22 basement to Bullpen 17, depending upon whatever
23 they -- the officers feel like doing, or Bullpen
24 16 or Bullpen 26.

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1 Q. Okay. Have you ever had an accident
2 on yourself at court?
3 A. Yes.
4 Q. How many times?
5 A. About four.
6 Q. Do you remember when?
7 A. No. I try to blank that out because
8 of humiliation.
9 Q. Well, I'm going to need to ask some
10 questions about it.
11 A. I'm telling you I don't remember the
12 dates.
13 Q. Okay. Do you remember what happened
14 the first time?
15 A. How about diarrhea and feces -- and
16 urination.
17 Q. And where were you specifically
18 located at the time?
19 A. I was in the bullpen.
20 Q. Which bullpen, behind the court or
21 lower level?
22 A. Lower level.
23 Q. And what happened before that? Had
24 you asked to use the bathroom?

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1 A. I was in a bullpen where there was
2 accessible toilet.
3 Q. Okay. But you still went on
4 yourself?
5 A. Yes.
6 Q. Okay. And then did they -- did any
7 guards help you get a new uniform or anything?
8 A. No.
9 Q. No.
10 Did you go to court that day?
11 A. I don't remember.
12 Q. Okay. The second time where were you
13 located when it happened?
14 A. You know, I don't remember.
15 Q. Okay. Was it urination or defecation
16 or both?
17 A. Sometimes the food is slop and it's
18 probably both.
19 Q. Okay. You don't remember
20 specifically?
21 A. No. For over a year I had diarrhea
22 three or four times a week because of the food.
23 Q. And so even if you had a cell that
24 had handrails, would you still have a problem?

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1 A. I'm in a cell now with handrails.
2 Q. Do you still have problems with the
3 diarrhea?
4 A. Not as bad as I used to have.
5 Q. Okay.
6 A. I learned what not to eat.
7 Q. Okay. Did you have diapers any of
8 the times that you went to court and this
9 happened to you?
10 A. No, because they did a cell search
11 and they took all the medical supplies as
12 contraband and threw them in the garbage and then
13 recharge you for them when you have to get them
14 again.
15 Q. What do you mean they charge you for
16 them?
17 A. They double bill you. It's all false
18 statistics in here, corruption.
19 Q. They charge you for diapers?
20 A. They turn around and mark you up for
21 it, yeah, all your medical supplies.
22 Q. How do they charge you?
23 A. Like, for example now, the foot
24 cream, okay, the foot cream you can't get it any

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1 longer. You got to go through commissary. All
2 right? But they turn around and the system is
3 now that they're supposed to be taking it out of
4 your trust fund account. Different medical
5 supplies and stuff like this here is being taken
6 out of your trust fund account.
7 Q. Do they charge you for your
8 appointments with doctors?
9 A. I don't know. All I know is that
10 I've been in Cermak, and I watch 150 guys in 20
11 minutes refuse to go for medical in Cermak.
12 Q. They're refusing medical?
13 A. Yeah. I don't blame 'em.
14 Q. Do you refuse medical?
15 A. No. I want to go but they won't take
16 me. They won't let me out of the cell.
17 Q. Have you ever refused having your
18 vital signs taken?
19 A. No.
20 Q. Have you ever refused any other type
21 of medical --
22 A. No. No. Absolutely not.
23 Q. Okay. Have you ever refused insulin?
24 A. Yeah, I stopped taking insulin.

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1 Q. Okay.

2 A. I definitely stopped taking insulin.

3 The reason being --

4 MR. MORRISSEY: She didn't ask you.

5 BY MS. CARROLL:

6 Q. How many times have you -- why did

7 you stop taking insulin?

8 A. Okay. The reason being my sugar

9 plummeted. I had my sugar drop to 37, all right?

10 Q. Okay.

11 A. That's at diabetic coma, stroke

12 level.

13 Q. Okay.

14 A. When you take your insulin -- I've

15 taken insulin in the real world and I've taken

16 insulin in here, so I know the difference between

17 the two.

18 Q. Okay.

19 A. All right? Everyone that takes that

20 insulin is overly hungry and no food.

21 Q. Okay.

22 A. You get half the allotted amount of

23 food.

24 Q. Let's go back to on days that you

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1 Defender, from Shelley Blair --

2 MS. CARROLL: Don't give me any

3 information --

4 MR. MORRISSEY: Don't talk about your

5 relationship with your attorney.

6 THE WITNESS: But it's answering her

7 question, though, about not getting to court at

8 all because of no transportation. I got

9 documentation.

10 BY MS. CARROLL:

11 Q. So are you saying that there are

12 times that you didn't go to court because people

13 didn't take you up and down the ramps to --

14 A. Months and months of that.

15 Q. Okay. How often do you use your

16 prosthetic when you go to court?

17 A. If I could wear it, I'd wear it every

18 day.

19 Q. But if not, then you just use a

20 regular wheelchair?

21 A. (Indicating.)

22 Q. Okay. Have you ever told anyone that

23 you would get millions of dollars by suing the

24 Jail?

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1 went to court.

2 A. Yes, ma'am.

3 Q. Did you ever have an accident when

4 you were up behind the courtroom?

5 A. No.

6 Q. Okay.

7 A. No, because I go in and come right

8 out.

9 Q. Okay. So did officers take you

10 immediately upstairs for your court and then back

11 down?

12 A. Yeah, after the waiting process and

13 whenever they would finish with the prior

14 inmates.

15 Q. Okay. Do sheriffs help you up and

16 down the ramp at Leighton?

17 A. It depends upon which sheriff it is.

18 THE COURT REPORTER: Are you saying --

19 MS. CARROLL: Leighton, L-e-i-g-h-t-o-n.

20 THE WITNESS: Where is Leighton?

21 BY MS. CARROLL:

22 Q. The 26th and Cal Criminal Courthouse

23 next door.

24 A. I got a letter from the Public

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1 A. No.

2 Q. Has anyone ever told you you would

3 get millions of dollars by suing the Jail?

4 A. (Indicating.)

5 MR. MORRISSEY: He's already asked and

6 answered that question.

7 MS. CARROLL: Well, I'm asking him again.

8 BY MS. CARROLL:

9 Q. I'm asking. Has anyone told you

10 that?

11 A. No.

12 Q. Okay. You've never --

13 A. I'm not interested in suing. I'm

14 more interested in doing what God asks me to do.

15 Q. Have you ever bragged to other people

16 that you could get millions of dollars by suing

17 the Jail?

18 A. That is not my intention. My

19 intention is to get the hell out of here.

20 Q. Have you ever bragged about it?

21 A. No.

22 Q. Even to your brother on a phone

23 recording?

24 A. Oh, yeah. That's my brother, that's

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1 my family.
 2 Q. Okay.
 3 A. Because I see -- I see -- I see the
 4 corruption in this place.
 5 Q. Okay. And have you told him that you
 6 were going to get millions of dollars by suing
 7 the Jail?
 8 A. Probably so.
 9 Q. Okay.
 10 A. Because I wanted him to probably send
 11 me some money.
 12 Q. Okay. So have you heard of the Lacy
 13 case?
 14 A. I don't even know what you're talking
 15 about.
 16 Q. Have you heard of a bunch of people
 17 in the wheelchairs suing the Jail?
 18 A. No.
 19 Q. Okay. Does the name Marque Bowers
 20 sound familiar to you?
 21 A. Yeah. Bowers was in the same tier I
 22 was.
 23 Q. Okay. Have you talked to Bowers
 24 about lawsuits?

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1 A. No.
 2 Q. What about Kevin Dawson?
 3 A. Who?
 4 Q. Kevin Dawson?
 5 A. I don't even know who you're talking
 6 about.
 7 Q. Harold Vaughan?
 8 A. Vaughan -- Vaughan is in the same
 9 tier I was in.
 10 Q. Have you talked to him about
 11 lawsuits?
 12 A. No.
 13 Q. Kenneth Farris?
 14 A. I don't even know who you're talking
 15 about.
 16 Q. Maurice Boston?
 17 A. I don't even know who you're talking
 18 about.
 19 Q. Okay. Keith Martin?
 20 A. No. No, I've never talked to Keith
 21 about no lawsuits. Keith and I were in the same
 22 housing area, yes.
 23 Q. What about Nicholas Potter?
 24 A. I was in the bullpen with Potter

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1 yesterday.
 2 Q. Okay. Now, in any of the times that
 3 you have fallen did anyone ever witness the
 4 actual falls? Not the times with the two
 5 officers, but the times where you just fell in
 6 your cell or --
 7 A. Yeah, the sheriff staff and the
 8 nursing staff.
 9 Q. Okay. Any other inmates?
 10 A. Yeah, 'cause -- when I was in Cell 7,
 11 3A, yes.
 12 Q. Who is the person that witnessed that
 13 fall?
 14 A. I don't remember. Definitely it was
 15 witnessed by the whole tier.
 16 Q. Whole tier?
 17 A. The whole tier.
 18 Q. Any other time that anyone ever
 19 witnessed you fall?
 20 A. I don't remember.
 21 Q. Okay. When you defecated on yourself
 22 at court, was there anybody -- you said you were
 23 in a cell alone, is that correct, or was there
 24 anyone in the cell with you?

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1 A. When I had the accident?
 2 Q. Yeah.
 3 A. I was in with other inmates. I was
 4 in mixed population which I shouldn't have been
 5 in.
 6 Q. Do you remember any of the people?
 7 A. I don't remember people like that.
 8 Q. Okay.
 9 MS. CARROLL: I don't have any other
 10 questions. Patrick?
 11 **EXAMINATION**
 12 **BY MR. MORRISSEY:**
 13 Q. Did you have a court appearance
 14 yesterday, Mr. Roberts?
 15 A. Yes.
 16 Q. Okay. Tell us about that.
 17 A. I went for a psych eval yesterday.
 18 Q. Where were you held prior to your
 19 evaluation?
 20 A. I was held between where the ramp
 21 goes up, and the area -- there's an area there
 22 it's a big bullpen, and I was held on the
 23 outside.
 24 Q. Approximately how long were you held

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1 on the outside?

2 A. For over an hour and a half.

3 MS. HUFF: How long?

4 THE WITNESS: Over an hour and a half.

5 MS. HUFF: I'm sorry?

6 THE WITNESS: Over one hour and a half.

7 MS. HUFF: Thank you.

8 BY MR. MORRISSEY:

9 Q. Is there a ramp that leads up to the

10 courthouse?

11 A. Yes, there is.

12 Q. Describe the ramp for us.

13 A. It's got maybe a .45 degree incline

14 and then maybe 150 to 200 feet going up.

15 Q. Have you ever went up the ramp

16 without assistance?

17 A. Yes, I have.

18 Q. Have you ever maneuvered down the

19 ramp without assistance?

20 A. Yes, I have.

21 Q. Ever been times when you attend court

22 where you were required to get out of your

23 wheelchair?

24 A. Yes.

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1 is and lean myself on the railing to lower myself

2 to the toilet. And then I gotta do the same

3 thing in reverse to get back up.

4 Q. Did the grab bars help you to

5 transfer to the toilet when you were in --

6 A. I couldn't do anything if they

7 weren't there.

8 Q. All right. There have been times

9 when you were in cells on the third floor of the

10 RTU that did not have grab bars?

11 A. Yes.

12 Q. And did you fall -- did you have

13 falls while trying to transfer to a toilet

14 without --

15 A. Yes, I did.

16 Q. Did you ever file grievances about

17 these falls when attempting to toilet?

18 A. Yeah. Yeah, I did. I don't know

19 whether or not they were processed though.

20 Q. What do you mean?

21 A. The C.R.W. department is corrupt, all

22 right? The C.R.W. worker, she's -- I don't know

23 if she's here. They may have moved her to

24 another division, I don't know. Justine, she

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1 Q. Tell us about that.

2 A. I was going upstairs for a psych

3 eval, my leg wasn't swollen. The transportation

4 officer is not using diligence or discipline, and

5 we go down, we leave the bullpen area and go

6 about 500 feet, and there's a -- there's a

7 stairwell that goes down, and he's got the other

8 inmates with him and we're going upstairs to the

9 tenth floor. And we take -- there's stairs. We

10 go down the stairs. I have to walk down the

11 stairs while other inmates carry the wheelchair.

12 And I grieved it, and the answer that I got --

13 never mind.

14 Q. On the third floor are there two

15 cells, to your knowledge, with grab bars there?

16 A. Yes.

17 Q. Describe how you use the grab bars

18 when you're in a cell with grab bars, the toilet.

19 A. I have to go like this, reach like

20 this here, lock my chair, reach like this, all

21 right, push myself up, all right, and stand on my

22 leg and balance -- and balance on the wall, all

23 right (indicating). And then I have to maneuver

24 and hop and turn myself to where the other rail

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1 took over 500 of my grievances, took them out of

2 the grievance box, and I never got them back for

3 over a year. She stole over 500 of my

4 grievances.

5 MR. MORRISSEY: All right. Thank you. Let

6 me just review my notes, Mr. Roberts. I think

7 I'm almost done.

8 THE WITNESS: Sure.

9 BY MR. MORRISSEY:

10 Q. Mr. Roberts, do you remember being

11 housed on 3E, Cell 6?

12 A. Yes.

13 Q. Did that cell have grab bars?

14 A. No.

15 Q. Do you recall being housed on 3A,

16 Cell 7?

17 A. Yes.

18 Q. Do you know whether that cell has

19 grab bars in the toilet?

20 A. No.

21 Q. Do you recall being assigned to Cell

22 3A -- I'll rephrase it.

23 Do you recall being assigned to

24 Tier 3A, Cell 6?

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1 A. Yeah.

2 Q. Do you recall whether that cell had

3 grab bars?

4 A. It had no grab bars, and the way the

5 toilet -- the way the toilet design is I

6 couldn't -- I couldn't -- I couldn't use the

7 toilet at all. The only way I was able to manage

8 to use the toilet was with the wheelchair. The

9 minute they took the wheelchair away from me they

10 had to transfer me out of the cell because I used

11 the wheelchair to pull up to transfer.

12 MR. MORRISSEY: I have nothing further.

13 MS. CARROLL: A couple questions.

14 EXAMINATION

15 BY MS. CARROLL:

16 Q. Have you ever fallen while going to

17 court?

18 A. No.

19 Q. Have you ever fallen down the ramp?

20 A. No.

21 Q. Now, you said something about walking

22 down the stairs?

23 A. Yes.

24 Q. Were you able to walk down those

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1 stairs?

2 A. Sorry?

3 Q. Were you able to walk down those

4 stairs?

5 A. Yes. My leg wasn't swollen.

6 MS. CARROLL: Okay. Nothing further.

7 EXAMINATION

8 BY MS. HUFF:

9 Q. When you were on the third level in

10 either 3E or 3A, how often were you allowed out

11 of your cell?

12 A. Sometimes I wasn't allowed out for 72

13 hours to 80 hours.

14 Q. Now, what was a typical day like?

15 A. 18 hours of reading the bible.

16 Q. Okay. It's my understanding that

17 there's six hours out, is that correct, or no?

18 A. It wasn't for me.

19 Q. Okay. How many hours were you

20 allowed out in a day?

21 A. None.

22 Q. Ever?

23 A. I couldn't even use the accessible

24 toilets.

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1 Q. Did you ever -- is there a ring bell

2 or a buzzer that you can ring to --

3 A. Yes, I rang it. Trust me, I rang it.

4 Q. Okay. How often did this happen?

5 A. It happened quite a bit.

6 Q. Okay. So in the time that you've

7 been incarcerated since 2014 to date, are you

8 saying that you're not allowed out of your cell

9 into the dayroom for an extended period of time?

10 A. I am allowed out of my cell now.

11 Q. Okay.

12 A. Sergeant Bogenhagen (phonetic) that

13 just brought my lunch --

14 THE COURT REPORTER: What was the name?

15 THE WITNESS: Sergeant Bogenhagen, he just

16 brought my lunch.

17 The toilet backed up, all right,

18 3E, Cell 6. They have a plumbing problem. The

19 toilet backed up. I'm complaining to them.

20 They're saying that I'm gonna sabotage and flood

21 the deck, which doesn't even make no sense not in

22 my medical condition, all right? Every time I

23 fall I develop blood clots within two weeks. You

24 asked me. Please --

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1 Q. Well, I guess that you're not

2 responding to my question.

3 A. What is your question?

4 Q. On a typical day how many hours are

5 you allowed out of your cell?

6 A. I wasn't allowed out at all for

7 weeks, for months.

8 Q. When was that?

9 A. And then -- I grieved it.

10 Q. I understand that. When was this to

11 the best of your recollection?

12 A. I was -- I don't remember the dates

13 now.

14 Q. On a typical day are you allowed out

15 of the cell into the dayroom?

16 A. Yes, now I am. Now I am.

17 Q. How long has that been going on?

18 A. Since I transferred over from A to E.

19 Because of my grieving process Superintendent

20 Brown had to back down off that administrative

21 nonsense.

22 Q. Okay. And you said there's

23 accessible toilets in the bathrooms on 3E and 3A?

24 A. In the dayroom.

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1 Q. In the dayroom?

2 A. Yeah.

3 Q. And there are buzzers for inmates to

4 use?

5 A. Yeah, but the officers don't respond

6 to them.

7 Q. Do you have any specific officers

8 that you're aware of that don't respond to those

9 buzzers?

10 A. Yeah, Barine (phonetic) didn't.

11 Q. Okay. And was Barine a male or a

12 female?

13 A. Male.

14 Q. And what shift does Barine work?

15 A. Barine -- it depends if they're

16 working overtime. Barine would work -- Barine

17 rotates at times. Barine --

18 THE COURT REPORTER: Are you saying Barine

19 or Varine?

20 THE WITNESS: I think it's Barine.

21 It was from 7:00 to 3:00.

22 BY MS. HUFF;

23 Q. Okay. And how often did Barine deny

24 you the ability to get out of your cell?

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1 A. It wouldn't have to be Barine. It

2 would be multiple officers depending upon the

3 white shirt that was over them.

4 Q. Okay. Do you know any other officers

5 by name that denied you the ability to get out of

6 your cell?

7 A. Yes, Pena.

8 Q. Okay.

9 A. I don't know. It's a Mexican guy. I

10 don't remember -- oh, Corona, Aguilar or

11 something like that. I don't remember how to

12 spell his name.

13 Q. And what white shirt would be over

14 them?

15 A. Bogenhagen, the one that just brought

16 me my lunch.

17 Q. And what did that white shirt have

18 against you?

19 A. What Pena had said about me and my

20 praise and worship.

21 Q. And what is that?

22 A. Hallelujah, hallelujah, hallelujah,

23 hallelujah, hallelujah, hallelujah, hallelujah.

24 I could go on and on.

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1 Q. The white shirt doesn't like that you

2 sing that?

3 A. Pena didn't like it.

4 Q. The officer? So she would deny you

5 the ability to come out --

6 A. He.

7 Q. He would deny you the ability to come

8 out of your cell?

9 A. And he relayed it to the chain of

10 command, and the chain of command would because

11 of my religious rights.

12 MS. HUFF: I have no further questions.

13 MS. CARROLL: I have nothing.

14 MR. MORRISSEY: We'll waive.

15 MS. CARROLL: Okay.

16 MS. HUFF: Thank you for your time.

17 THE WITNESS: Thank you.

18 FURTHER DEPONENT SAITH NOT

19

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1 STATE OF ILLINOIS)

2 COUNTY OF C O O K) SS:

3

4 I, Dawn M. Lombardo, Certified

5 Shorthand Reporter in and for the County of Cook

6 and State of Illinois, do hereby certify that

7 JAMES ROBERTS was duly sworn by me to testify the

8 whole truth, and that the foregoing deposition

9 was recorded stenographically by me and was

10 reduced to computerized transcript under my

11 direction, and that the said deposition

12 constitutes a true record of the testimony given

13 by said witness.

14 I further certify that the reading

15 and signing of the deposition was waived by the

16 deponent's counsel.

17 I further certify that I am not a

18 relative or employee or attorney or counsel of

19 any of the parties, or a relative or employee of

20 such attorney or counsel, or financially

21 interested directly or indirectly in this action.

22 IN WITNESS WHEREOF, I have hereunto set

23 my hand at Chicago, Illinois, this 19th day of

24 December, A.D. 2016.

Illinois CSR License 084-001879

Dawn M. Lombardo, C.S.R.
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Inter-Agency Agreement
Between
The Office of the Sheriff of Cook County
And
The Cook County Health and Hospitals System

Introduction

The Sheriff of Cook County, an elected official, is responsible for operating the Cook County Department of Corrections (CCDOC), which includes the Cook County Jail (CCJ). The Cook County Health and Hospitals System (CCHHS), through its affiliate, Cermak Health Services of Cook County (Cermak), is responsible for provision of health care and mental health care services to detainees incarcerated in the CCDOC jail complex at 26th and California. This is exclusive of non-resident programs. The Facilities Management Department of Cook County is responsible for renovation and maintenance of CCJ's physical plant. This Department is subsidiary to the County's Department of Capital Planning.

The scope of this agreement shall be limited to Cermak's operations at the CCDOC. The mission of CCDOC is "to ensure the safety of the citizens of Cook County, correctional staff and detainees; to provide a central location for the screening and classification of all defendants and a safe, secure, humane, positive, efficient and constitutionally-operated corrections department with a highly qualified, well-trained and dedicated staff." The mission of Cermak is "to provide quality, timely, and cost-efficient [health care] services to the detainees at the Cook County Department of Corrections ... in accordance with acceptable community standards, accreditation, and regulatory requirements." These health care services include medical, mental health, and dental care.

Cermak, for its part, agrees to comply with the security rules and regulations of the CCDOC. CCDOC, for its part, agrees to respect the medical autonomy of Cermak. Further, Cermak and CCDOC acknowledge their mutual responsibility and interdependence in meeting the health care needs of detainees consistent with the safety and security of detainees and staff. The two parties also acknowledge their mutual responsibility and interdependence in meeting the pertinent standards of accrediting bodies, including the National Commission on Correctional Health Care and the American Correctional Association, as well as all applicable local, state and federal laws and regulations.

Although health care and security issues require a degree of separation in all correctional facilities, inter-agency collaboration is essential to effective operations in each of these two areas. The purpose of this agreement is to delineate mutual responsibilities and to promote coordinated action of two partnering agencies of Cook County government, CCDOC and Cermak, in providing health care services to detainees of the Cook County Jail.

Definitions

“CCJ” or “the facility” shall refer to the Cook County Jail and shall include Divisions I-XI, Cermak Infirmary, the Receiving, Classification, and Diagnostics Center (“RCDC”) , as well as any facility that is built, leased, or otherwise used on the CCJ compound to replace or supplement any of these existing buildings.

“Detainee” or “detainees” or “inmate” shall be construed broadly to refer to one or more individuals detained at, or otherwise housed, held, in the custody of, or confined at either the existing facility or any institution that is built or used to replace CCJ or any part of CCJ.

“Cermak Administration” shall refer to the Chief Operating Officer and the Chief Medical Officer of Cermak Health Services.

“Cermak Services” shall refer to medical care, dental care or mental health services provided on site at the CCJ by Cermak Staff.

“Cermak Staff” for purposes of this Agreement, shall include employees, contractors, trainees, volunteers and students.

“CCDOC Administration” shall refer to the Executive Director of CCDOC or his designee.

Scope of Cermak’s Services and Obligations

Cermak, including any contract providers to it, is the sole entity responsible for the delivery of health care to detainees of CCDOC. Cermak will design, organize, manage, direct, and supervise, under the terms of this Agreement, the health care delivery system for detainees, in order to provide access for detainees to medical, mental health, and dental care, in compliance with all applicable laws, regulations, and standards, as well as the provisions of this Agreement. Matters of medical, mental health, and dental judgment are the sole province of the responsible Cermak professional.

The Chief Operating Officer of Cermak is the designated health authority and is responsible for providing quality health services to detainees at CCJ who require such services while in custody. Final medical judgment rests with Cermak's Chief Medical Officer, a licensed physician who is the responsible physician for the facility.

The services to be provide by Cermak and the obligations of Cermak include, but are not limited, to the following:

- Operate a system of delivery of medical, mental health, and dental care to detainees that meets all federal, state, and local laws and regulations, as well as applicable consent decrees and agreed orders;
- Develop mutually acceptable policies and procedures to accommodate both security requirements and clinical needs for professional practice;

- Screen each detainee entering the CCDOC at time of intake for medical or mental health issues;
- Designate the level of health services appropriate for each detainee to CCDOC in order to house each individual in an appropriate living unit that can meet his or her health care needs;
- Evaluate the health status of detainees placed in segregation and determine whether health needs require special accommodation or contraindicate the placement;
- Coordinate with the Office of the Sheriff to plan and review new-officer and in-service trainings for CCDOC personnel in areas such as suicide prevention, first aid and cardiopulmonary resuscitation, recognition of acute manifestations of certain medical and mental health problems, precautions and procedures with respect to communicable diseases, and procedures for appropriate referral of detainees with health complaints to health staff;
- Collaborate with CCDOC on its health and mental health training needs;
- Collaborate with CCDOC and Department of Capital Planning in capital planning and facility design for clinical service areas and medical support areas;
- Collaborate with CCDOC in design and implementation of information systems;
- Provide CCDOC with reports and information needed for statistical purposes;
- Conduct mission-oriented research studies on the health status and needs of the correctional population, in order to improve the health care services to be provided in the future;
- Provide environmental services for designated medical work areas;
- When medically necessary, provide a medical attendant to accompany correctional escort for inmate movement;
- Inform CCDOC in advance of any prospective changes in Cermak's operations that have the potential to affect CCDOC operations or that may affect, directly or indirectly, access to care or the delivery of health care services;
- Provide timely medical evaluation and information to the CCDOC related to use-of-force allegations in a standardized format;
- In cooperation with public health authorities, conduct outbreak investigations for facility wide contagious disease outbreaks;
- Notify CCDOC of persons with communicable diseases including ectoparasite infestations that may pose a threat to the health of other detainees or staff;
- Provide initial emergency-only medical care to officers and refer them to an appropriate level of follow up care;
- Provide utilization review of transfers, specialty consultations, hospitalizations and internal movement associated with Cermak services so that unnecessary movement can be eliminated;
- Provide utilization review of special diets on a regular basis;
- Monitor medication utilization by detainees in order to reduce hoarding and abuse of medication;
- Require that all Cermak employees adhere to CCDOC security rules and regulations;
- Participate in CCDOC meetings as requested;
- Notify CCDOC regarding any breach of security rules by Cermak staff;

- Develop mutual policy and procedure with CCDOC to maintain sharps, tool, and key control in accordance with CCDOC security needs;
- Cermak will require, in cooperation with the CCDOC, training to all Cermak staff in security precautions to provide services in the jail environment;
- Cermak shall establish a policy and procedure for requesting health care services; and
- Consistent with applicable law, provisions of the Agreed Order, and lawful court orders, Cermak shall provide CCDOC all information and assistance necessary for responding to a detainee grievance in a full and timely manner.
- Cermak will prescribe medically necessary aids to impairment based on a physical evaluation of the inmate. Where the use of a specific aid to impairment is contraindicated for security concerns, alternatives will be developed in collaboration with CCJ so the health needs of the inmate are met.

Scope of CCDOC's Services and Obligations

CCDOC is the sole entity responsible for the custody of detainees, which includes their physical safety and security, housing, transportation, nutrition, recreation, and education, among others.

The Executive Director of the CCDOC, acting on behalf of the Cook County Sheriff, is the custodian of the CCJ and is responsible for working cooperatively with Cermak to provide access to quality health services to those detainees at CCJ who require such services in a manner that is consistent with the safety and security of staff and detainees. Final judgment with regard to safety and security matters rests with the CCDOC Executive Director.

The services to be provided by CCDOC and the obligations of CCDOC include, but are not limited, to the following:

- Provide security to detainees and to Cermak staff as well as to their property and equipment;
- Present each detainee entering the CCDOC at time of intake for medical and mental health screening;
- CCDOC will provide, in cooperation with Cermak, training to Cermak staff in security precautions needed to provide services in the jail environment;
- Provide access and security sufficient to permit Cermak staff to deliver safe and effective health services in a manner that complies with the Agreed Order dated May 13, 2010 in the matter of United States of America vs. Cook County, Illinois, et al., Civil No. 10 C 2946 and applicable accreditation and regulatory standards;
- Accommodate reasonable Cermak timekeeping systems and provide timely employee entrance screening so as to not unduly delay the employee starting their shift;
- Provide reasonable privacy to Cermak staff when they are conducting medical interviews and evaluations of detainees;
- When CCDOC personnel are assigned to health care areas they will respect medical privacy, adhere to medical or mental health procedures within that unit, will be stationed at the security post and will be respectful of the medical decorum on the unit.
- Participate with Cermak in a coordinated approach to the delivery of health care to detainees;

- Develop mutually acceptable policies and procedures to accommodate both security requirements and clinical needs for professional practice;
- Provide detainees with access to health services during lockdowns for medical emergencies, urgent medical visits, off-site specialty visits, chronic illness visits, and medication distribution;
- CCDOC will accommodate secure locked boxes in each living unit, and make readily available forms provided by Cermak, for use by detainees in making health care service requests;
- House detainees in living units that that will accommodate their medical or mental health condition as designated by Cermak staff;
- Develop policies and procedures for timely notification of Cermak when detainees with high acuity medical and mental health conditions are transferred from one living unit to another;
- Provide notice of planned shipment to an IDOC facility as soon as possible after the planned shipment is known to CCDOC so that appropriate medical notification can be provided to IDOC;
- Escort detainees and health care staff as needed in a timely manner:
 - detainees moving to health care areas for appointments, visits, tests, treatments, and other purposes, both inside and outside the compound of CCJ;
 - health staff making rounds or passing medications on living units, including segregation areas;
- In the event that an inmate decides to refuse scheduled health care services, escort the inmate to the medical unit so that health care personnel can inform the inmate of potential health consequences of refusal; however, if an inmate refuses to be escorted to the medical unit, no cell extraction shall occur but an incident report shall be provided to Cermak and a disciplinary ticket shall be issued to the inmate, subject to amendment of the CCDOC disciplinary code;
- Provide adequate space within which Cermak can provide health care, dental care and mental health services, including space for clinical areas, programming areas, medical support areas, and administrative areas, including office space for staff;
- Provide special medical diets for detainees who may require them, as ordered by medical or dental staff, or as required by Court Order;
- Provide adequate hygiene supplies for detainees, including such items as toothpaste and toothbrushes, soap, towels, and toilet paper, as well as access to grooming aids such as nail clippers;
- Provide extra changes of uniforms, linens, and bedding for detainees with ectoparasite infestation, as ordered by Cermak staff members;
- Upon notice from Cermak that a determination has been made that an aid to impairment is medically necessary to a detainee, CCDOC shall permit detainees to retain and use canes, crutches, walkers, wheelchairs, and other such aids to impairment, as ordered and periodically reviewed by Cermak staff members. Where the use of a specific aid to impairment is contraindicated for security concerns, alternatives will be developed in collaboration with Cermak so the health needs of the inmate are met.
- Collaborate with Cermak in capital planning and facility design for clinical service areas and medical support areas;
- Collaborate with Cermak in design and implementation of information systems;

- Facilitate data transfer to Cermak information systems to include information necessary for provision of Cermak services;
- Permit reasonable access to the correctional information system;
- Conduct disciplinary hearings when detainees use abusive or disrespectful language to a Cermak employee, contractor, or volunteer;
- Inform Cermak in advance of any prospective changes in CCDOC's operations that may affect, directly or indirectly, the provision of health services. Such changes may include, but are not limited to,
 - Change in mission of a housing unit that may affect health care delivery;
 - Plans to build a new housing unit or to deactivate an existing unit;
 - Plans to rehabilitate or refurbish a housing unit or tier;
 - Changes in detainee schedules that may interfere with medication administration, meal times, or other aspects of the medical regimen;

It is jointly understood by Cermak and CCDOC that a third agency of Cook County government, Facilities Management, is responsible to maintain, repair, or remodel the physical plant as needed to support operations of both Cermak and CCDOC.

Forensic Testing, Custody Functions, and Restraints

Unless requested by the subject and approved by the Cermak COO, Cermak staff will not be asked to engage in forensic testing. Cermak will not be asked to assist in restraining any detainee physically or chemically for custody purposes. Medical restraints (restraints used by health providers for health care purposes) shall only be applied and used under the supervision and orders of appropriate medical staff. Consistent with each agency's directives on use of force and restraints, custody staff will assist medical staff upon request in the application of medical restraints when needed.

Contracting

In order to provide health care services to detainees, Cermak may utilize CCHHS providers or may contract for certain services rather than providing them directly. Cermak will require that all contractors and volunteers who work within the CCJ compound comply with security regulations.

CCDOC will not appoint or contract with any other entity, public or private, to provide any health care services that are provided by Cermak under the present Agreement.

Policies and Procedures; General Orders

Cermak and CCDOC each will make available to the other agency its complete manual of institutional policies and procedures (termed General Orders in the case of CCDOC). Each agency will deliver to its counterpart all revisions to individual policies or General Orders as they are issued.

For new or revised General Orders that involve or affect health care operations, CCDOC will consult with Cermak Administration before finalization. Similarly, for new or revised Policies and Procedures that involve or affect custody operations, Cermak will consult with CCDOC Administration before finalization. Both parties shall work cooperatively to develop mutually consistent policies which address issues requiring communication and cooperation between the parties such as a Medication Administration and Distribution.

Cermak and CCDOC will each adopt a zero tolerance policy relating to sexual abuse.

Forums for Communication and Coordination

Leadership of CCDOC and Cermak will meet together at least quarterly, or more frequently if necessary, to address and resolve issues of joint concern. Also, each party, CCDOC and Cermak, will invite a representative of the other agency to standing and special meetings of its own leadership team. CCDOC and Cermak will jointly establish an Inter-Agency Quality Improvement Committee that will meet monthly to monitor this agreement and to focus on areas where interdisciplinary collaboration between custody and health care staff has been identified to be important, including a Suicide Prevention Committee. This Quality Committee will invite the Department of Facilities Management to these meetings to monitor facility issues of concern related to this agreement.

CCDOC and Cermak will develop a mechanism for rapidly and simultaneously disseminating essential information to both custody and health care staff through CCDOC superintendents and Cermak department heads.

Each party acknowledges its duty to negotiate in good faith on all matters relating to this Agreement, including resolution of any dispute that may arise in the performance of the Agreement. Whenever possible, disputes related to a party's performance of its obligations will be discussed and resolved immediately at their point of origin through open and frank discussion of the issues in a sincere attempt to find resolution. If resolution is not possible at the point of origin, each party may use the chain of command for its agency so that resolution can be achieved between corresponding individuals at a higher level. In the unlikely event that a dispute cannot be resolved at any lower level, final resolution will take place at the level of the Sheriff of Cook County and the Chief Executive Officer of CCHHS.

Role of the Medical Advocate

The Sheriff of Cook County or the Executive Director of CCDOC may designate one or more staff members to serve as health care ombudsmen or medical advocates. The principal duties of this position will be to identify health care concerns, to identify systems issues, to gather pertinent information from a detainee, groups of detainees, or others concerned on a detainee's behalf, to notify appropriate parties at Cermak regarding these concerns, and to assist detainees in understanding their rights and responsibilities regarding health care. In this capacity, the medical advocate(s) will serve as a liaison between CCDOC and Cermak for resolution of these health care concerns. Cermak recognizes the positive role of the medical

advocate. The medical advocate(s) will work collaboratively with Cermak staff in performing their duties and Cermak staff will likewise work collaboratively with the medical advocate(s).

Grievances

CCDOC and Cermak will collaborate in the grievance process so that all health related grievances lodged by detainees are responded to in a timely manner. CCDOC will promptly deliver to Cermak, and Cermak will promptly respond to, all health related grievances lodged by detainees.

Disclosure of Protected Health Information and Security Information

The parties to this agreement will comply with all applicable federal, state and local laws and regulations and lawful court orders with regard to the disclosure and use of a detainee's health information, including but not limited to the Health Insurance Portability and Accountability Act (HIPAA) and applicable Illinois statutes such as 735 ILCS 5/8-802.

Consistent with and subject to these laws, applicable provisions of the Agreed Order, and lawful court orders, Cermak shall disclose to the CCDOC the relevant protected health information for use in safeguarding the health and safety of detainees, officers, employees and others at the CCJ for, but not limited to, the following purposes:

- Provision of health care to inmates
- Determining medically appropriate classification, housing, and work assignments;
- Determining a detainee's ability to participate in programmatic activities;
- Determining whether an detainee is dangerous to self or others;
- Investigating and responding to grievances from an individual detainee regarding his health care services;
- Investigating and responding to complaints from a third party about the health care services provided to an detainee;
- Performing contact tracing for suspected exposure to communicable diseases within the jail;
- Transporting or transferring detainees from CCJ to another correctional facility;
- Investigating incidents of use of force by correctional officers and incidents of detainee-on-detainee violence;
- Conducting multidisciplinary morbidity and mortality reviews for quality improvement;
- Maintaining the safety, security, and good order of CCJ;
- Information necessary on the use of force report; and
- Evaluation of detainees for segregation status or special housing status.

Any protected health information shared among the parties pursuant to this Agreement may not be further disclosed to other parties except as permitted by law. Any party disclosing any protected health information in violation of this clause and/or the applicable laws and regulations will bear the full legal responsibility for said disclosure.

The medical advocate will be authorized to review health records of a detainee if the detainee has signed a written release of health information or if release of such records is otherwise permitted under applicable law.

The parties shall work together to develop policies and procedures as needed to articulate and achieve compliance with the patient confidentiality provisions described in this Agreement, including the provision of appropriate training and documentation.

CCDOC will disclose to Cermak reports necessary to conduct appropriate mortality review.

Cermak will not disclose appointment dates to detainees.

Medical Disaster Plan

CCDOC and Cermak agree to prepare jointly a medical disaster plan to address the medical aspects of disasters such as riots, mass arrests, tornado, fire, flooding, and/or lack of power or water for extended periods of time. The Medical Disaster Plan will make provisions for the following:

- Staffing
- Communications
- Safety and security of detainees and staff
- Triage areas and procedures
- Access to medical records
- Transportation
- Evacuation procedures

Cermak and CCDOC will cooperate with the organization and execution of any types of drills and trainings necessary for readiness to implement the Medical Disaster Plan effectively.

Cermak and CCDOC will periodically review the Medical Disaster Plan and agree on any changes necessary to same. Any such changes will be in writing and amply distributed to all involved personnel.


Term of agreement

This Agreement will commence with the date of approval by the Sheriff of Cook County and the Board of Directors of the Cook County Health & Hospitals System and shall continue until terminated by at least six months' written notice of either party. It shall be reviewed by both parties and shall be revised annually or more frequently if necessary, based on joint agreement between the two parties.

IN WITNESS WHEREOF, THE PARTIES HEREBY EXECUTE THIS AGREEMENT:

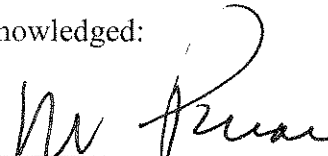
COOK COUNTY HEALTH AND HOSPITALS SYSTEM:

*This Agreement was approved by the Board of Directors
Of the Cook County Health and Hospitals System on January 28, 2011:*



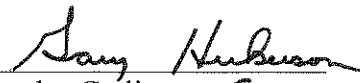
William T. Foley
Chief Executive Officer
Cook County Health & Hospitals System

Acknowledged:



Michael A. Puisis, DO
Chief Operating Officer
Cermak Health Services of Cook County

**OFFICE OF THE SHERIFF OF COOK COUNTY, ILLINOIS
COOK COUNTY DEPARTMENT OF CORRECTIONS**

G.H. 
~~Salvador Godinez~~ **GARY HICKERSON**
Executive Director
Cook County Department of Corrections

Transcript of the Testimony of
DANIEL MORECI

Date: June 9, 2015

Case: BRANDON BROWN VS. THOMAS DART, ET AL.

TOOMEY REPORTING

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June 9, 2015

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PRESENT:

THOMAS MORRISSEY, LTD.,
10150 South Western Avenue
Chicago, Illinois 60643
(773) 233-7900, by:
PATRICK W. MORRISSEY, ESQUIRE,
Patrickmorrisey1920@gmail.com,

appeared on behalf of the Plaintiff;

ANITA ALVAREZ, STATE'S ATTORNEY OF COOK
COUNTY, ILLINOIS,
500 Richard J. Daley Center
Chicago, Illinois 60602
(312) 603-5440, by:
MICHAEL J.A. PASQUINELLI, ESQUIRE,
Michael.Pasquinelli@cookcountyil.gov,
appeared on behalf of Defendant
Thomas Dart, Sheriff of Cook County.

ALSO PRESENT:

GEORGE J. VOURNAZOS, ESQUIRE

REPORTED BY: KATHLEEN M. DUFFEE, CSR
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DANIEL MORECI
June 9, 2015

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

BRANDON BROWN,)
)
Plaintiff,)
)
v.) No. 14 CV 7945
)
THOMAS DART, SHERIFF OF)
COOK COUNTY, et al.,)
)
Defendants.)

The deposition of DANIEL K. MORECI,
designated Rule 30(b)(6) representative, called by
the Plaintiff for examination, taken pursuant to the
Federal Rules of Civil Procedure of the United States
District Courts pertaining to the taking of
depositions, taken before KATHLEEN M. DUFFEE, a Notary
Public within and for the County of Cook, State of
Illinois, and a Certified Shorthand Reporter of said
state, at 500 Richard J. Daley Center, Chicago,
Illinois, on the 9th day of June, A.D. 2015 at
2:22 p.m.

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I N D E X

WITNESS	EXAMINATION
DANIEL K. MORECI	
By Mr. Morrissey	4, 83
By Mr. Pasquinelli	58

E X H I B I T S

NUMBER	MARKED FOR ID
Plaintiff's Exhibit No. 1	4
No. 2	8
No. 3	23
Defendant's Exhibit No. 1	64
No. 2	67
No. 3	77
No. 4	79

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(WHEREUPON, the witness was
duly sworn.)

MR. MORRISSEY: This is a 30(b)(6) deposition
in Brown v. Dart taken pursuant to notice, continued
to this date, taken at the State's Attorney's Office
at their request.

My name is Pat Morrissey. I represent
the plaintiff, Brandon Brown.

Why don't we mark this as Exhibit 1.

(WHEREUPON, Plaintiff's Exhibit

No. 1 was marked for

identification as of 06/09/2015.)

MR. MORRISSEY: Showing Exhibit 1 to your
attorney, I'll ask: Are you prepared to produce this
designee for paragraph 1, subsections (b) through (g)?

MR. PASQUINELLI: Correct.

DANIEL K. MORECI,
designated Rule 30(b)(6) representative, called as a
witness herein by the Plaintiff, having been first duly
sworn, was examined and testified as follows:

EXAMINATION

BY MR. MORRISSEY:

Q. Sir, can you please state your name for the
record?

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A. Daniel Moreci.

Q. Sir, are you currently employed?

A. Yes.

Q. Where do you work?

A. The Sheriff's Department.

Q. What's your title?

A. First Assistant Executive Director.

Q. Currently, what are your responsibilities?

A. Oversee security operations at the Cook County
Jail.

Q. How long have you worked for the Sheriff's
Department?

A. 24 years.

Q. Prior to being named a First Assistant
Executive Director, what was your position?

A. Assistant Executive Director.

Q. What were your responsibilities in that
position?

A. I oversaw maximum security, External
Operations, Division I, Division IX, emergency response
team, criminal investigations intelligence unit.

Q. For approximately which years were you
Assistant Executive Director?

A. I would say 2011 to 2012.

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Q. Prior to holding that position, what was your
title?

A. Superintendent.

Q. Of which division?

A. Division IX.

Q. Approximately which years was that?

A. I believe it was 2009 to 2011.

Q. Prior to that position, what was your title?

A. Superintendent of Division XI.

Q. In which years?

A. For 2008 to 2009.

Q. Prior to Division XI, what was your position?

A. Chief of Operations, Division IX.

Q. Which years was that?

A. 2008. I was there less than a year.

Q. What were your responsibilities as Chief of
Operations in Division IX?

A. Oversee the daily operations of Division IX.

Q. When you were there, was there only one Chief
of Operations for Division IX?

A. Yes.

Q. What's your highest level of education?

A. A high school diploma.

Q. Where did you attend?

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A. Morton East.

Q. Do you have any military experience?

A. No.

Q. What year did you graduate high school?

A. 1984.

Q. What did you review in preparation for this
deposition?

A. Just some of the papers, the transfer
documents, logbooks.

Q. Do you recall which transfer documents and
logbooks?

A. The transportation logbook, the Cermak
cancellation logbook, External Operations logbook.

Q. Did you review Exhibit 1, which is the Notice
of Deposition?

A. Yes.

Q. When did you review that document?

A. A few days ago.

Q. Presently, who do you report to?

A. Executive Director, Nneka Jones.

Q. Where is your office?

A. In Division V, second floor.

Q. Presently, are you familiar with the procedure
to temporarily house detainees in the Sheriff's custody
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at outlying jail facilities?

A. Yes.

Q. Are there General Orders that address this procedure?

A. Yes.

Q. What are the General Orders that you're aware of?

A. What are they?

Q. Yes.

A. Can you explain?

MR. MORRISSEY: Why don't we mark this as Exhibit 2.

(WHEREUPON, Plaintiff's Exhibit No. 2 was marked for identification as of 06/09/2015.)

BY MR. MORRISSEY:

Q. Sir, I'm showing you what's marked Exhibit 2. It's a General Order, Number 13.3. Do you see that?

A. Yes.

Q. Have you seen this document before?

A. Yes.

Q. What is your understanding of this document?

A. It's just a procedure how to transfer inmates to outlying counties.

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Q. This became effective November 16, 2007?

A. Yes.

Q. Other than this document, Exhibit 2, are you aware of any other documents or policies that describe the policies for housing inmates in other jurisdictions?

MR. PASQUINELLI: Objection to the form of the question.

THE WITNESS: Can you reword the question?

BY MR. MORRISSEY:

Q. Sure. Currently, is the Sheriff's Department require to follow General Order 13.3?

A. Yes.

Q. Are there any amendments to General Order 13.3 that you're aware of?

A. Not that I'm aware of, no.

Q. Do you understand that you are speaking for the Sheriff's Office today as a 30(b)(6) witness?

A. Yes.

Q. As a First Assistant Executive Director, do you send any memos?

A. Pardon me?

Q. Do you disseminate memos as a First Assistant Executive Director?

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A. Yes.

MR. PASQUINELLI: Objection to the form of the question.

BY MR. MORRISSEY:

Q. Do you review memos as a First Assistant Executive Director?

A. Yes.

Q. From 2012 to the present, are you aware of any memos that address housing inmates in other jurisdictions?

A. No.

Q. From August 1, 2012, to the present, which other jurisdictions outside the Cook County Department of Corrections can house inmates remanded to the Sheriff?

A. I don't know all of them. There's probably, I think, about ten.

Q. Can you identify the jail facilities that you're aware of?

A. Kankakee, Livingston, DeWitt, Piatt, Moultrie, Jefferson County, Henry County. Yeah, that's about all I think I know where they are.

Q. Does the Sheriff presently send inmates remanded to his custody to Kankakee?

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A. Yes.

Q. How does the Sheriff's Office identify inmates temporarily reassigned to Kankakee?

A. We go by security concerns, overcrowding, high risk, high profile.

Q. Who within the Sheriff's Office is responsible for identifying inmates that are potentially eligible for a transfer?

A. I am.

Q. How long have you had that responsibility?

A. Approximately three years.

Q. In March of 2013 were you responsible for identifying prisoners for relocation?

A. Yes.

Q. Okay. How do you go about identifying eligible prisoners?

A. I review the disciplinary history, talk with the investigations unit.

Q. Do you conduct this inquiry for each individual eligible for relocation?

A. Yes.

Q. Do you document this investigation?

A. No.

Q. Is there a specific division within the Cook

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County Jail that you primarily look to when you're looking to reassign a prisoner?

A. No.

Q. In March of 2013 what computer system did the jail use?

A. CCOMs. It might have been, it might have been IMACS. I'm not sure the exact date we switched over.

Q. In March of 2013 would you look into the computer system when you're investigating whether to reassign a prisoner?

A. Yes.

Q. In March of 2013 did the computer system identify specific alerts for prisoners?

A. Yes.

Q. What are alerts to your knowledge?

A. What are alerts?

Q. Correct.

A. Just to let someone know if there's an issue with an inmate: security; threat; medical concerns.

Q. What types of medical concerns are you aware of?

A. They label them as P1, P2, P3, P4, or M1, M2, M3, M4.

Q. What is P1?

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A. It's a psych term. I couldn't tell you what each level is. That's what Medical decides.

Q. Do you know what "M1" means?

A. Medical. "P" is psych. "M" is medical.

Q. As a representative of the Sheriff, you're not aware of the distinction between M1 and M4?

A. I'm not a doctor. The Medical people decide whether they're a P1, 2, 3 or an M1, 2, or 3.

Q. The Sheriff's Office doesn't make a distinction between M1 and M4?

A. No.

Q. Are people with M1 classifications eligible to be relocated to Kankakee?

A. It's Medical. That's their decision.

Q. The question is: If a computer alert identified a prisoner with an M1 alert, as the person from the Sheriff's Office responsible for relocating people, can that person be eligible to be moved to Kankakee?

MR. PASQUINELLI: Objection, form of the question.

BY THE WITNESS:

A. Medical would determine whether or not that inmate can go to Kankakee.

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BY MR. MORRISSEY:

Q. The question is: If the alerts in the computer system reflected "M1," as a representative of the Sheriff could the Sheriff still send that person to Kankakee?

MR. PASQUINELLI: Objection. It's been asked and answered.

BY THE WITNESS:

A. Medical will make the decision whether the inmate can go to Kankakee or not.

BY MR. MORRISSEY:

Q. Can Medical override the Sheriff's recommendation to transfer somebody to an outside jurisdiction?

A. Yes.

Q. How are you aware that Medical can override the Sheriff's decision?

A. We'll send the list of names to Medical, and they send the list back stating which ones can or cannot go.

Q. In March of 2013 how frequently was this list sent to Medical?

A. Every week.

Q. How many eligible names would be on this list?

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A. Could be one. Could be 30.

Q. What is this list called?

A. It's a list.

Q. Is there a title on this list?

A. Not that I'm aware of.

Q. Do you prepare the list?

A. I send the names in an email. There's not a document or special form.

Q. Who do you email these names to?

A. To Cermak.

Q. Is there a specific email within Cermak?

A. Connie Mennella.

Q. How long does Dr. Mennella have to respond to your email?

A. There's not a set time, but she usually responds pretty quickly, within a day or so.

Q. How long has Dr. Mennella been the Chief Medical Officer at Cermak?

A. I don't know.

Q. Typically, what does Dr. Mennella's list she sends back to you contain?

A. It will just say which inmates can go and which ones can't.

Q. Does she explain why?

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A. No.

Q. When did you start sending this list to Dr. Mennella of potential transfers?

A. That always took place as long as I've been doing it.

Q. Do you have meetings with Dr. Mennella regarding this procedure?

A. No.

Q. Did you ever have an in-person discussion with Dr. Mennella regarding this procedure?

A. Yeah.

Q. Do you regularly meet with Dr. Mennella?

A. Once a week we meet at the jail management meeting.

Q. What is a jail management meeting?

A. It's just the weekly meeting that we discuss issues and concerns throughout the jail.

Q. Who runs that meeting?

A. Doctor/Director Nneka Jones.

Q. Where is this meeting located?

A. It could be the Division V conference room, or it could be in the Division V training room.

Q. And you discuss the procedures to select inmates for housing at outside jurisdictions at this
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meeting?

A. Not at this meeting unless there's an issue with it.

Q. Has there ever been an issue with the procedure the Sheriff follows to transfer inmates to outside jurisdictions?

A. No.

Q. In addition to Ms. Jones, who attends this jail management meeting?

A. All the superintendents, directors, Facilities Management, Cermak personnel.

Q. And how long have these meetings been taking place?

A. I'd say at least five years.

Q. Do you attend any other regular meeting with Dr. Mennella?

A. Occasionally I do a, uhm, it's called a morning huddle, that they do every morning in Cermak Hospital.

Q. What is discussed in the morning huddle?

A. The incidents from the day prior.

Q. Other than the jail management meeting and the morning huddle, any other meetings you regularly have with Dr. Mennella?

A. No.

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Q. Do you meet weekly at South Campus with members of the jail staff?

A. No.

MR. PASQUINELLI: Objection to the form of the question.

BY THE WITNESS:

A. No.

BY MR. MORRISSEY:

Q. Do you attend the Sheriff's meetings held at the South Campus weekly?

A. Yes.

Q. Dr. Mennella attends those meetings; correct?

A. No.

Q. Over the last three years, you're not aware that Dr. Mennella attends those meetings?

MR. PASQUINELLI: Objection to the form of the question. Objection, asked and answered. You can answer it.

THE WITNESS: Could you rephrase the question?

BY MR. MORRISSEY:

Q. Does Dr. Mennella attend the weekly Sheriff's meetings held at the South Campus?

A. No.

Q. Do the Sheriff's meetings ever discuss the
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transfer of prisoners to outside jurisdictions?

A. Occasionally.

Q. What is discussed in the Sheriff's meetings about that issue?

A. About that issue?

Q. Correct.

A. The Sheriff will ask me how has it been going with the outlying counties.

Q. What do you tell him?

A. Good.

Q. Do you report to the Sheriff anything other than that it's going well?

A. No.

Q. Senior management of Cermak also attends those weekly Sheriff's meetings; right?

A. No.

Q. After receiving an email from Dr. Mennella saying that a prisoner is eligible to be moved to an outside facility, what do you do?

MR. PASQUINELLI: Objection to the form of the question.

BY THE WITNESS:

A. He gets put on a transfer list. Then he gets transferred in the next run.

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BY MR. MORRISSEY:

Q. How frequently are the runs?

A. Weekly.

Q. Are you aware of any other -- strike that.

After a prisoner is entered -- strike that.

Do you enter the prisoners on the transfer list?

A. No.

Q. Who does that?

A. An officer.

Q. And in March of 2013 did an officer enter the prisoners onto the transfer list?

A. Yes.

Q. Generally, which officer is responsible for making this transfer list?

A. Officer Nava.

Q. How do you spell his last name?

A. She. N-A-V-A.

Q. How long has Officer Nava been responsible for the transfer list?

A. As long as I've been doing it.

Q. Does Officer Nava have responsibility or involvement in identifying prisoners for relocation?
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A. No.

Q. Why do you delegate to Officer Nava the responsibility for completing the transfer list?

MR. PASQUINELLI: Objection to the form of the question. Objection, relevance. You may answer the question, Director.

THE WITNESS: Could you reword it?

BY MR. MORRISSEY:

Q. Did you delegate the responsibility to Officer Nava to create the transfer list?

A. Yes.

Q. Does she have discretion of which prisoners are entered onto the transfer list?

A. No.

Q. How do you communicate to Officer Nava who should be included on the transfer list?

A. I send her an email.

Q. After Officer Nava enters information onto the transfer list, what is the next step in assigning a prisoner to an outside jurisdiction?

A. Officer Nava will send emails to the divisions where the inmates are housed, to the transportation unit, and to the External Operations superintendent.

Q. What is included within these emails?
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A. The transfer list.

Q. The transfer list is emailed to each of those three entities?

A. Yes.

Q. Why is the email list -- strike that.

Why is the transfer list e-mailed to the External Ops office?

A. Because the transportation unit falls under External Operations.

Q. What is the next step in reassigning a prisoner to another jurisdiction?

A. Can you reword that?

Q. Sure. After this transfer list is e-mailed to the three entities --

A. Uhm-hmm.

Q. -- what is the next step in moving a person to an outside jurisdiction?

A. The next step is them getting transferred.

Q. Are you aware of any other documents that are created when the Sheriff decides to move a prisoner to an outside jurisdiction?

A. No.

Q. Are you aware of a form called an Interagency Health Inquiry Form?
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A. No.

MR. MORRISSEY: Why don't we mark this as 3.
(WHEREUPON, Plaintiff's Exhibit

No. 3 was marked for identification as of 06/09/2015.)

BY MR. MORRISSEY:

Q. Sir, I'm showing you what's marked Exhibit 3. Take a moment to look at it and let me know when you're done.

A. Okay.

Q. Exhibit 3, the title is Cook County Department of Corrections Housing Placement Notification. Do you see that?

A. Yes.

Q. Have you seen this form before, this type of form?

A. Yes.

Q. Tell me what it is.

A. It's just a form that let's us know who's at the outlying county.

Q. Is this form generally created prior to a body moving to an outside facility?

A. Yes.

Q. When is -- strike that.
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When are forms like Exhibit 3 created?

A. After the approval.

Q. Would that be after you approve them for transfer?

A. No. After the Medical approves.

Q. Would that be before the transfer list is created?

A. Yes.

(WHEREUPON, there was a brief interruption.)

MR. PASQUINELLI: Can we have a brief moment?

(WHEREUPON, a recess was had from 2:49 p.m. to 3:02 p.m.)

BY MR. MORRISSEY:

Q. We just had a break. We were talking about Exhibit 3, and when in the process of reassigning a prisoner to an outside facility is it created?

A. After Medical clears them to go.

Q. Who from the -- strike that.

Is Exhibit 3 a Sheriff's Department document?

A. Yes.

Q. Who within the Sheriff's Department is responsible for creating this document?

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A. Can you rephrase that?

Q. Are you responsible for inputting the information into the Housing Placement Notification?

A. Yes.

Q. Do other members of the Sheriff's Office besides yourself input this information?

A. Yes.

Q. Who could they be?

A. Officer Nava.

Q. Is the Housing Placement Notification created prior to the creation of the transfer list?

A. Yes.

Q. The Housing Placement Notification has a column for Reason for New Housing Placement. Do you see that?

A. Yes.

Q. And Exhibit 3 checks overcrowding; right?

A. Yes.

Q. Who determines which entry to select under that box?

A. Me.

Q. What factors do you consider when determining whether the jail is overcrowded and a prisoner should be reassigned to an outside facility?

A. Can you rephrase that?

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Q. What is overcrowding at the Cook County Jail?

A. When we don't have room to put an inmate in a bed.

Q. In March of 2013 what was the capacity for male inmates at the jail?

A. I don't have that off the top of my head.

Q. In March of 2013 what criteria would you use to determine whether the jail was overcrowded and a prisoner should be relocated to an outside facility?

A. I would get a call from the classification unit.

Q. Where is the classification unit located?

A. In Division VIII RTU.

Q. In March of 2013 where was the classification unit located?

A. In Division V.

Q. Is there any written policy or procedure that describes how you as the First Assistant Executive Director is required to complete the Housing Placement Notification?

A. No.

Q. Have you received any training on how to complete the Housing Placement Notification?

A. No.

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Q. Why do you include the next court date on the inmate checklist?

A. Because if the inmate is going to go out, say Saturday, if he has a court date next week, he won't go.

Q. Would that be a factor in deciding whether to temporarily relocate a prisoner to an outside jurisdiction?

A. Sometimes.

Q. What other criteria would you use to determine whether it's appropriate to move a prisoner temporarily to another jail?

A. Can you go further into that?

Q. You said that if a prisoner has a court date the following week and it's a Saturday --

A. Uhm-hmm.

Q. -- that might weigh in not moving that person to another jurisdiction; right?

A. Yes.

Q. Are there any other criteria that you would use in determining whether to move somebody to an outside facility?

A. If Medical says they can't go.

Q. Anything else you can think of?

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A. If the county that's receiving the inmate decides they don't want a certain inmate.

Q. Anything else in your experience?

A. That's all I can think of right now.

Q. Are there any automatic disqualifiers the Sheriff has that prohibit the temporary relocation of a prisoner?

A. Just medical.

Q. If a prisoner had a cast on his arm, under the Sheriff's criteria could that person still be temporarily relocated outside the jail?

A. Possibly.

Q. Would the answer be the same if there was a wheelchair-using detainee?

MR. PASQUINELLI: Objection. Irrelevant to the subject matter. Answer the question.

THE WITNESS: Can you reword the question?

BY MR. MORRISSEY:

Q. If you have a wheelchair-using detainee and you were deciding whether to temporarily relocate that person, would it be possible for the Sheriff to still move that person to an outside jail?

A. Possibly.

Q. Below that, it says Medical Approval. Do you
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see that? Exhibit 3.

MR. PASQUINELLI: (Indicating.)

BY THE WITNESS:

A. Yes.

BY MR. MORRISSEY:

Q. As the First Assistant Executive Director, are you required to complete that portion of this form?

A. Yes, but we don't do that part anymore.

Q. What is an Interagency Health Inquiry Form?

A. I don't know.

Q. Have you ever seen an Interagency Health Inquiry Form?

A. I may have.

Q. In March of 2013 were you required to complete the Medical Approval portion of Exhibit 3?

A. No.

Q. When did the Sheriff's Office stop completing the Medical Approval portion of the Housing Placement Notification?

A. I don't remember.

Q. Why did the Sheriff's Office stop completing that portion of the Housing Placement Notification?

A. Medical didn't want us to have all the reasons why an inmate could be okayed or refused.

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Q. Who from Medical made that decision?

A. I don't know.

Q. When was that decision -- strike that.

When was that conveyed to the Sheriff's Office?

A. I don't know.

Q. Was it discussed in an interagency meeting at Cermak?

A. Not that I'm aware of because I'm not at their meetings.

Q. Was it discussed at any meeting you regularly attend at Cermak?

A. No.

Q. Did Cermak explain why they didn't want the Sheriff's Office to have the information about the person's health?

A. As far as I know, it's the law.

Q. Who told you it's the law?

A. Medical.

Q. Below that, it says Discipline Clearance. Do you see that?

A. Yes.

Q. Is the Sheriff's Department required to complete the Discipline Clearance section of the
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Housing Placement Notification form?

A. Yes, if the inmate mainly had discipline.

Q. Who is required to complete that portion of the form?

A. I am.

Q. Below that, it says Educational Clearance. Do you see that?

A. Yes.

Q. What does that mean?

A. Well, if an inmate is registered in our high school program or GED program, we will not transfer an inmate and disrupt his educational needs.

Q. How did you determine or how does the Sheriff's Office determine whether a prisoner has an educational clearance?

A. Well, mostly likely he would be on the school tier.

Q. Would it be reflected in the computer database?

A. Yes.

Q. And is the Sheriff required to mark yes or no in response to that?

A. If it applies to that inmate.

Q. If the clearance does not apply to the inmate, is the Sheriff required to select "no"?

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A. Yes.

Q. And who within the Sheriff's Office would be responsible for making that designation?

A. I would be.

Q. Below that, it says Special Court Orders or Other Legal Instructions. Do you see that?

A. Yes.

Q. What does that mean in the Sheriff's Office?

A. A court order. If the inmate has any current court orders on file.

Q. And how would you conduct that inquiry?

A. Through the Records Office.

Q. Do you contact Superintendent Queen to make that inquiry?

A. Not necessarily.

Q. Who from the Sheriff's Office is required to sign the Housing Placement Notification?

A. Myself and the superintendent of the living unit where the inmate is located.

Q. Is the inmate required to sign the Housing Placement Notification?

A. No.

Q. When are members of the Sheriff's Department required to sign the Housing Placement Notification?
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A. Whenever the original placement form is filled out.

Q. What next happens to the Housing Placement Notification?

A. It gets put in a file.

Q. Where is that file maintained?

A. In Officer Nava's office.

Q. Is the form given to the receiving jurisdiction?

A. No.

Q. Is the Sheriff required to put the next court date on the form?

A. Yes.

Q. When a prisoner is relocated to an outside jurisdiction, when does the relocation end?

A. It depends.

Q. Is it fair to say most detainees in your custody attend court once a month?

A. I don't have that information. I couldn't tell you.

Q. Prisoners at the jail are generally pretrial detainees; right?

A. Yes.

Q. And most, if not all, pretrial detainees attend
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court; right?

A. Yes.

Q. And prisoners that are temporarily assigned to outside prisons must periodically come back to Cook County to attend court; right?

A. Yes, unless they're county sentenced.

Q. I'm talking about pretrial detainees who are housed in outside jurisdictions. They do attend court at frequent intervals in Cook County; right?

A. Yes.

Q. And the Sheriff's Office is responsible for transporting the prisoner from the outside jail back to Cook County; right?

A. Yes.

Q. After the prisoner attends court, are they reincarcerated in the Cook County Jail?

MR. PASQUINELLI: Objection to the form of the question.

BY THE WITNESS:

A. Sometimes.

BY MR. MORRISSEY:

Q. How does the Sheriff's Office determine who stays in the Cook County Jail after a court appearance and who returns back to an outside jail?

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A. The majority of the inmates that go out will be there at the Cook County Jail for a week. They'll come in on a Saturday and they'll leave the following Saturday, but some inmates do go to court and return directly to Kankakee depending on their security classification.

Q. Which prisoners attend court at Cook County and are sent directly back to the outside jail?

A. Could be security issues, some HRNs, some high profiles.

Q. Which category of prisoners return back to the jail and are sent back out to the outside facility the following week?

A. All categories.

Q. When a prisoner is moved to another jurisdiction, what documents does the Sheriff send to that accepting facility regarding the prisoner?

A. Just a list of the names.

Q. Does the Sheriff send the -- for example, does the Sheriff send Kankakee any other information regarding a specific prisoner?

A. Just disciplinary if we need to.

Q. Any other information?

A. It depends. If it's a high profile, we'll let
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1 **them know what exactly is going on with that certain**
2 **inmate.**

3 Q. Any other information the Sheriff would send
4 to Kankakee for a prisoner the Sheriff is temporarily
5 relocating?

6 **A. No, not that I can think of.**

7 Q. Does the Sheriff send that prisoner's mitt?

8 **A. No.**

9 Q. In March of 2013 would the Sheriff's Office
10 send Kankakee that prisoner's mitt?

11 **A. No.**

12 Q. In March of 2013 the Sheriff's computer
13 database identified a prisoner's future move; correct?

14 MR. PASQUINELLI: Objection to the form of the
15 question.

16 BY THE WITNESS:

17 **A. No.**

18 BY MR. MORRISSEY:

19 Q. In March of 2013 were you familiar with the
20 Sheriff's computer database?

21 **A. Yes.**

22 Q. After a prisoner returned from court, would
23 the computer reflect that prisoner's next court date?

24 **A. Sometimes.**

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1 Q. On what occasion would the computer not reflect
2 it?

3 **A. If the courts didn't put it in there.**

4 Q. Isn't it true the Records Office is responsible
5 for updating the Sheriff's computer?

6 **A. Yes.**

7 Q. And the Records Office is responsible for
8 inputting into the jail system when that prisoner has
9 to attend court next?

10 **A. Yes.**

11 Q. And that would be reflected on the jail's
12 computer database; correct?

13 **A. Yes.**

14 Q. And that's how you would determine when the
15 prisoner next had to attend court when you were
16 considering whether to transfer him to another jail?

17 **A. Yes.**

18 Q. That same computer database can also identify
19 future medical appointments; right?

20 **A. No.**

21 Q. How does the Sheriff's Office determine whether
22 a prisoner who has a -- strike that.

23 How does the Sheriff's Office determine
24 whether a prisoner who he is considering to temporarily
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1 relocate to an outside jail has a future medical
2 appointment at Stroger?

3 **A. We don't determine that.**

4 Q. In March of 2013 could the Sheriff's Office
5 identify when a prisoner had a future medical
6 appointment at Stroger Hospital?

7 **A. Can you reword that?**

8 Q. In March of 2013 could the Sheriff find out
9 when a prisoner in his custody had a future court
10 date -- strike that.

11 In March of 2013 could the Sheriff's
12 Office identify when a prisoner in his custody had
13 a future medical appointment at Stroger Hospital?

14 **A. How far in the future?**

15 Q. Two months in the future.

16 **A. No.**

17 Q. One month in the future?

18 **A. No.**

19 Q. When is the Sheriff's Office made aware of
20 a prisoner's future medical appointment at Stroger?

21 MR. PASQUINELLI: Objection, foundation.
22 Objection, form.

23 THE WITNESS: Can you reword the question?

24 MR. MORRISSEY: I'll ask a preliminary
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1 question.

2 BY MR. MORRISSEY:

3 Q. As a member of the Sheriff's Department,
4 you're aware that inmates are transferred at times to
5 Stroger Hospital for medical appointments; correct?

6 **A. Yes.**

7 Q. When does the Sheriff's Office learn that a
8 prisoner has a future medical appointment at Stroger?

9 MR. PASQUINELLI: Objection to the --

10 BY THE WITNESS:

11 **A. The day of.**

12 MR. PASQUINELLI: -- form of the question.

13 BY THE WITNESS:

14 **A. The day of.**

15 BY MR. MORRISSEY:

16 Q. How does the Sheriff's Office become aware of
17 future medical appointments?

18 **A. Cermak sends an appointment sheet.**

19 Q. In March of 2013 was that the only way for
20 the Sheriff's Office to become aware of a future
21 medical appointment at Stroger?

22 **A. Yes.**

23 Q. So in determining whether a prisoner was
24 eligible for relocation in March of 2013, did you
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1 consider whether a prisoner had a future medical
2 appointment at Stroger Hospital?

3 MR. PASQUINELLI: Objection. That's been asked
4 and answered. Objection, form.

5 THE WITNESS: Can you reword it?

6 BY MR. MORRISSEY:

7 Q. Assuming a prisoner was identified on March 7,
8 2013, to be relocated to Kankakee Jail, and at the
9 time the person had a scheduled Stroger appointment
10 on April 8, 2013, would the Sheriff's Office be aware
11 of that future medical appointment?

12 A. We would be aware that day, April 8th.

13 Q. Wouldn't you be aware April 7th, the day before
14 the scheduled medical appointment?

15 A. No.

16 Q. So in March of 2013 the Sheriff became aware
17 of a prisoner's future medical appointment the day of
18 the medical appointment at Stroger?

19 A. Yes.

20 Q. So to answer the question: March 7, 2013,
21 when considering whether to relocate a prisoner who
22 had a future medical appointment on April 8, 2013,
23 at Stroger, the Sheriff's Office would not have any
24 information regarding that visit; correct?

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1 A. Correct.

2 Q. From August 1, 2012, to the present, have you
3 discussed that issue with members of Cermak?

4 A. No.

5 Q. Have you discussed that issue with members of
6 the Sheriff's Department?

7 A. No.

8 Q. Why not?

9 A. I don't know why I would.

10 Q. Does the Sheriff's Office send the medical
11 records of prisoners relocated to Kankakee?

12 A. No.

13 Q. Do you know who -- do you know whether those
14 records are sent to Kankakee when a prisoner from
15 the jail is relocated to Kankakee?

16 A. Yes.

17 Q. Who sends them?

18 A. Cermak.

19 Q. Do you know how they're sent?

20 A. Electronically.

21 Q. Were they sent electronically in March of 2013?

22 A. I would say so.

23 Q. Do you have personal knowledge whether they
24 were sent electronically in March of 2013?

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1 A. Yeah, I would say they were.

2 Q. Do you know when Cermak sends the electronic
3 medical records to Kankakee?

4 A. No.

5 Q. Do you know who within Cermak sends the medical
6 records?

7 A. No.

8 Q. When a prisoner is reassigned to Kankakee, what
9 are the Sheriff's responsibilities for that prisoner
10 after receipt by Kankakee?

11 A. Can you be more specific?

12 Q. Is the Sheriff responsible for transporting the
13 prisoner from the jail to Kankakee?

14 A. Yes.

15 Q. How are they transported?

16 A. In a bus or a van. Sometimes a car.

17 Q. Where does Kankakee receive the prisoners?

18 A. In their receiving area.

19 Q. Do Sheriff's employees hand paperwork to
20 Kankakee Sheriff's employees at that point?

21 A. Possibly.

22 Q. Are prisoners entitled to bring any personal
23 properly with them to Kankakee?

24 MR. PASQUINELLI: Objection to relevance.

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1 Answer the question, Director.

2 THE WITNESS: Can you be specific?

3 BY MR. MORRISSEY:

4 Q. After the Sheriff transports the prisoners to
5 Kankakee, do Sheriff's officers generally transport
6 prisoners back to Cook County?

7 A. Yes.

8 Q. Why would the Sheriff's Office be transporting
9 prisoners from Kankakee to Cook County?

10 MR. PASQUINELLI: Objection to the form of the
11 question.

12 THE WITNESS: Can you reword that?

13 BY MR. MORRISSEY:

14 Q. How does the Sheriff's Office know who to
15 collect from Kankakee and bring back to Cook County?

16 A. They'll get a list of the names who has to come
17 back.

18 Q. Who determines who has to come back?

19 A. Officer Nava.

20 Q. What are the reasons for prisoners returning
21 back to Cook County?

22 A. To come back for court or -- it can be numerous
23 reasons why.

24 Q. Other than court, what other reasons?

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A. A trial could be coming up and they want to visit daily or every other day or whatever they do with their attorney to prepare for trial. Uhm, special visits, medical.

Q. And it's Officer Nava's responsibility for identifying the prisoners from Kankakee to come back to the jail?

A. Yes.

Q. And how does she determine which prisoners should come from Kankakee to Cook County with medical issues?

A. She would be advised from someone from Cermak.

Q. Who from Cermak would advise her?

A. I don't know.

Q. Are you involved in that process?

A. Well, she would let me know.

Q. Does the Sheriff collect prisoners from Kankakee and bring them back to Cook County with scheduled medical appointments?

A. Occasionally.

Q. When does the Sheriff's Office learn of the scheduled medical appointments?

MR. PASQUINELLI: Objection, form of the question. Objection, it's been asked and answered.
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BY THE WITNESS:

A. The day of the appointment.

BY MR. MORRISSEY:

Q. And which days -- strike that.

Is there one day that the Sheriff's Office transports prisoners from Kankakee to Cook County?

A. It's no specific day, but it can be more than two, three times a week sometimes.

Q. What time -- strike that.

What hours do you work at the jail?

A. Anywhere from 6:00 a.m. to 10:00 at night.

Q. What are Officer Nava's hours at the jail?

A. It could be --

MR. PASQUINELLI: The objection is relevance. I don't think that that information is requested in the 30(b)(6), but answer the question, Director.

BY THE WITNESS:

A. 6:00 to 2:00 or 7:00 to 3:00.

BY MR. MORRISSEY:

Q. And the Sheriff learns of the medical appointments the day of?

A. Yes.

Q. Does the Sheriff have resources to send
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officers that day to Kankakee to collect the prisoner for his medical appointment at Stroger?

A. Not always.

Q. What does the Sheriff's Office do if they don't have the resources?

MR. PASQUINELLI: Objection to the form of the question. It assumes facts not in evidence, but answer the question, Director.

THE WITNESS: Can you reword the question?

BY MR. MORRISSEY:

Q. You said that the Sheriff's Office does not always have resources the day of the medical appointment to send an officer in a vehicle to Kankakee to bring that individual to Stroger; right?

A. Yes.

Q. What does the Sheriff's Office do if that situation arises?

A. If we really had to make the transport, we would have to call somebody in from home.

Q. Are you aware of that happening?

A. Not too often.

Q. From 2013 to the present, has the Sheriff's Office requested greater notice when a prisoner that's relocated to an outside jail has a scheduled medical
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appointment?

A. Not to my knowledge.

Q. When the Sheriff's Office collects a prisoner from Kankakee and brings him back to the jail, what documents are routinely given to the Sheriff's employees?

A. None that I'm aware of.

Q. Does Kankakee give the Sheriff's employees the prisoners' medical records while he's incarcerated in Kankakee?

A. No.

Q. Is the Sheriff's Office made aware of medical records that were created when that prisoner was in Kankakee?

A. Not to my knowledge.

Q. Do you know whether the medical records from Kankakee are given to Cermak when the Sheriff collects the prisoner?

A. I believe so.

Q. What's the basis for your belief?

A. Well, I would think if the inmate had some issue or something in Kankakee medically, I would assume Kankakee would share that with Cermak.

Q. Do you know who within Cermak Kankakee shares
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1 it with?

2 **A. No.**

3 Q. Have you discussed that procedure with the
4 Sheriff's Office or with Cermak?

5 **A. No.**

6 Q. In April of 2013 did the Sheriff's Office
7 determine which outside facility a prisoner was
8 located at?

9 **A. Yes.**

10 Q. How would they do that?

11 **A. Availability, security issue.**

12 Q. The question is: In April of 2013 the Sheriff
13 had a computer system; right?

14 **A. Yes.**

15 Q. Assuming a prisoner was temporarily relocated
16 to Kankakee, could a member of the Sheriff's Department
17 look on the Sheriff's computer system to determine
18 where that prisoner is located?

19 **A. Yes.**

20 MR. PASQUINELLI: Objection to the form of the
21 question.

22 BY THE WITNESS:

23 **A. Yes.**

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1 BY MR. MORRISSEY:

2 Q. And assuming that the prisoner was in Kankakee,
3 would the Sheriff's computer system in April of 2013
4 reflect that information?

5 **A. Yes.**

6 Q. Would all sworn members of the Sheriff
7 Department have access to that information through the
8 computer system?

9 **A. Yes.**

10 Q. In March of 2013 when a prisoner was relocated
11 to Kankakee would the Sheriff have any responsibility
12 for medical care for that individual?

13 MR. PASQUINELLI: Objection to the form of the
14 question. It calls for a conclusion, but answer the
15 question, Director.

16 THE WITNESS: Can you be specific?

17 BY MR. MORRISSEY:

18 Q. Sure. In March of 2013 who was the Assistant
19 Executive Director of Operations?

20 **A. Myself.**

21 Q. Did you inspect Kankakee on a monthly basis?

22 **A. Myself, no.**

23 Q. Did you designate anybody to inspect Kankakee?

24 **A. Yes.**

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1 Q. Who was responsible for inspecting Kankakee?

2 **A. It could be myself, or it could be an Assistant
3 Director, a superintendent, my lieutenants from the
4 emergency response team.**

5 Q. Do you recall conducting any inspection between
6 February of 2013 and June of 2013 in Kankakee?

7 **A. Between what months again?**

8 Q. February of 2013 and June of 2013.

9 **A. I can't give you a specific date, but I'm sure
10 I probably was out there.**

11 Q. What would you do when you conducted an
12 inspection of Kankakee?

13 **A. I would make rounds in the jail, mainly to
14 the tiers where our inmates were located.**

15 Q. And what would consist of your inspection?

16 **A. I'd walk on the tier; look for cleanliness;
17 talk to the inmates; talk to the staff.**

18 Q. Would you make a round to determine whether
19 Cook County inmates were receiving proper medical care?

20 **A. I would go in to their dispensary, yes.**

21 Q. What would you do when you went to the
22 dispensary?

23 **A. I would just ask the nurse if there was any
24 issues with our inmates.**

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1 Q. And would the nurses in Kankakee give you that
2 information freely?

3 **A. They mainly would talk about behavioral issues.**

4 Q. And based on that information, what would you
5 do?

6 **A. It depends what their issues were.**

7 Q. Did you make -- did you document the
8 inspections?

9 **A. Possibly if it was something I felt needed to
10 be documented.**

11 Q. In 2013 did the Sheriff's Office have
12 discretion whether to document the outside visits that
13 were conducted monthly?

14 **A. Yes.**

15 Q. Did you review medical records when you visited
16 the Kankakee dispensary?

17 **A. No.**

18 Q. Did the Sheriff's Office in 2013 have any
19 person who would review medical records in the Kankakee
20 dispensary for Cook County inmates?

21 **A. No.**

22 Q. Do you know whether Cermak had a designee to
23 review medical records of prisoners from Cook County
24 temporarily relocated in Kankakee?

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A. I wouldn't know that.

Q. Presently, what does Cook County pay to have a prisoner in Kankakee?

A. I don't know the exact amount. I'm not involved in the decisions.

Q. Do you know approximately how much?

A. I think it's \$75 a day or something.

MR. PASQUINELLI: I'm going to just object at this time. I believe the question is not covered under the 30(b)(6), but answer it subject to my objection, Director.

I believe, counsel, your request on the 30(b)(6) was the entity responsible for payment of medical expenses, not the amount.

MR. MORRISSEY: Okay. Thank you.

MR. PASQUINELLI: But my objection stands with respect to that.

BY MR. MORRISSEY:

Q. In 2013 who was responsible for paying the costs of housing a prisoner in Kankakee?

A. I would imagine Cook County.

Q. In 2013 who was responsible for payment of medical expenses for prisoners in Kankakee?

A. Cook County.
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Q. Do you know how Cook County was billed for the services?

A. No.

Q. Do you review the bills?

A. No.

Q. In 2013 if a prisoner had a scheduled medical appointment at Stroger and at the time the Sheriff became aware of it the prisoner was housed in Kankakee, what would be Sheriff's Office do?

MR. PASQUINELLI: Objection to the form of the question. Objection, outside the scope of 30(b)(6).

Subject to those objections, please answer the question, Director.

BY THE WITNESS:

A. We would advise Cermak that the inmate was located at another living unit.

BY MR. MORRISSEY:

Q. And how would the Sheriff advise Cermak in 2013?

A. A phone call.

Q. And who at Cermak would the Sheriff advise?

A. Someone from Transportation would call probably someone in their scheduling department.

Q. Was that the policy, to call the scheduling
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department in 2013?

A. It's basically procedure. I don't know if it's on policy, but, yeah, that's what they would do.

Q. And after Transportation made that phone call to Scheduling, would the Sheriff do anything else?

A. We would stand by to hear if Cermak needed us to go get him, but they would tell us he would be rescheduled.

Q. Did the Sheriff make any documentation of that?

A. Yes.

Q. How was it documented?

A. In the refusal or the -- Transportation has a log of inmates that they transport. It would be in that logbook.

Q. In looking at Exhibit 3, how long was Mr. Brown scheduled to be in Kankakee?

A. He wasn't scheduled for any time span.

Q. In looking at Exhibit 3, when would you expect Mr. Brown to next return to Cook County?

A. The week before his next court date.

Q. Is there anything in writing that would describe the Sheriff's expectation that a person would be returned from Kankakee a week before their court date?

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A. No.

Q. What document would the Sheriff maintain in 2013 to identify when a prisoner in Kankakee would come back to the jail?

MR. PASQUINELLI: Objection. That's been asked and answered.

THE WITNESS: Can you rephrase the question?

BY MR. MORRISSEY:

Q. How does the Sheriff know when to collect a prisoner from Kankakee and bring him back to the jail?

MR. PASQUINELLI: Objection. This has been asked and answered.

BY THE WITNESS:

A. It would depend on his court date.

BY MR. MORRISSEY:

Q. And would the Sheriff make a record or put a person's name on a list when he should be transported from Kankakee back to the jail in anticipation of court?

A. It would be an email.

Q. And who would this email be sent to?

A. To the External Operations superintendent, Transportation supervisors, the division the inmate will be returning back to's superintendent.
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Q. And what would be the next step in collecting that prisoner from Kankakee and bringing him back to the jail?

A. Go and get him.

Q. Does the Sheriff need any official document to collect a body from Kankakee and bring him back to Cook County?

A. No.

Q. Is there any paperwork that the Sheriff must complete when they accept a body and bring him back from Kankakee to the jail?

MR. PASQUINELLI: Objection. That's been asked and answered.

THE WITNESS: Can you reword that?

BY MR. MORRISSEY:

Q. Does the Sheriff have to sign any document from Kankakee acknowledging receipt of the body when he's brought back to the jail?

A. I'm not aware of one.

Q. Can the Sheriff override Cermak's objection to relocate a prisoner to an outside jail facility?

MR. PASQUINELLI: Objection, foundation. Objection, form.

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BY THE WITNESS:

A. No.

BY MR. MORRISSEY:

Q. Does the Sheriff's Office have anything in writing that explains the responsibility it delegates to Cermak regarding the review of potential prisoners for temporary relocation?

A. Not to my knowledge.

Q. Did you discuss with Dr. Mennella the procedures to relocate prisoners to Kankakee or other jails in the morning huddles?

MR. PASQUINELLI: Objection to the form of the question. Objection. This has been previously covered by my client's testimony. Answer the question.

BY THE WITNESS:

A. Not that I recall.

BY MR. MORRISSEY:

Q. Does the Sheriff's Office have knowledge on how specifically Cermak notifies Kankakee that a prisoner might have an ongoing medical condition requiring treatment?

A. No.

Q. Did you review Exhibit 3 in preparation for this deposition?

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A. Yes.

MR. MORRISSEY: I don't have anything further.

MR. PASQUINELLI: Can we take a quick break?

I just want to go over my notes, and the witness has been going for a while.

(WHEREUPON, a recess was had from 2:52 p.m. to 2:58 p.m.)

EXAMINATION

BY MR. PASQUINELLI:

Q. Director, real quick. In March of 2013 through June of 2013 can you tell me which counties were accepting prisoners from the Cook County Department of Corrections for relocation? Just from that time period in 2013.

A. Kankakee, Piatt, Moultrie, DeWitt. Uhm, there's more. I just don't know them all offhand. Henry County, Jefferson County.

Q. Okay. In your review of the record for the plaintiff in this case, Brandon Brown, was he scheduled or was he transferred to any other outlying counties other than Kankakee County?

A. Not that I'm aware of, no.

Q. You talked a little bit about how the Sheriff's Office would go about picking up a transferee or a

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relocated detainee at Kankakee County. I want to touch a little more on that.

You said that typically you would make arrangements or the Sheriff's Office would make arrangements to pick up that individual approximately a week prior to their next court date. Do you recall that testimony?

A. Yes.

Q. And when you say approximately a week, that would be what you would -- that's just how it is in general, correct, and there would be times when perhaps it would be a little bit less than a week?

A. Yes.

Q. So when you testified previously about that it was approximately a week, that was what it typically was based upon your working in the jail for the years that you've been working there; correct?

A. Yes.

Q. And there are, again, occasions when it might be a little bit less than a week or it might be a little bit more than a week. True?

A. Yes.

Q. Mr. Morrissey had asked you questions about how a detainee or how detainees in general are identified

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for relocation. Do you recall that --

A. Yes.

Q. -- those questions?

Okay. Director, if you can kind of run me briefly through. How are you notified if there's an issue with overcrowding?

A. Classification unit.

Q. Classification notifies you?

A. Yes.

Q. And then what do you then do after you're notified by the classification unit?

A. They usually tell me, you know, it looks like we're getting an abundance of some type of inmates, maximum, medium, or whatever, and we can't house them. So we need to make some room.

Q. Okay. And your next step then would be to contact the various superintendents from the various divisions and ask for individuals to be transferred; correct?

A. Yes.

Q. And then once you get that list of names from the various superintendents, you then provide that list to Cermak for Cermak to determine if there's any sort of medical reason that they cannot be relocated.
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Would that be fair?

A. Yes.

Q. And then Cermak then has an opportunity to review the list of names to determine if there's a medical reason why they cannot be relocated to an outlying county. Would that be fair to say?

A. Yes.

Q. Now, Mr. Morrissey asked briefly about when the Sheriff's Office is notified about a future date for medical treatment for a detainee, okay, and you had indicated that we are not -- that the Sheriff's Office is not notified; correct?

A. Yes.

Q. However, you do -- strike that.

You are notified, though, the day of that a particular detainee needs to be transferred to Stroger Hospital or another location for treatment; correct?

A. Yes.

Q. And although you don't get specific notification of it and you're not informed of it, you do send this list to Cermak Hospital to review to determine if the individual detainee can be relocated to an outlying county; correct?
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A. Yes.

Q. And you rely upon Cermak Health Services' medical judgment in making that determination; correct?

A. Yes.

Q. You're not a medical doctor; am I correct, sir?

A. Yes.

Q. You don't -- the Cook County Department of Corrections does not have doctors per se on staff providing health care to inmates. Is that true?

A. Yes.

Q. Okay. You rely upon Cook County Health Services to provide those services for the jail; correct?

A. Yes.

Q. And you defer to their judgment with respect to, in the evaluation of an inmate's medical records, to determine if that individual can be properly relocated to an outlying county; correct?

A. Yes.

Q. And, sir, are there times when the outlying county refuses to accept a detainee?

A. Yes.

Q. And under what circumstances would they decline to accept a detainee?
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A. If they're familiar with them and their behavioral problem. They can't treat him.

Q. Okay. So you have been aware, you've been made aware in your capacity in the jail as one of the First Assistant Directors of the jail, you've been notified by an outlying county, specifically Kankakee County, that an inmate that's been identified by the Sheriff's Office to be relocated will not be accepted to Kankakee County. Would that be true?

A. Yes.

Q. And Kankakee County then would have reviewed the medical records of an individual detainee to make that determination. Would that be fair to say?

MR. MORRISSEY: Speculation.

BY THE WITNESS:

A. Yes.

BY MR. PASQUINELLI:

Q. And again, it's your understanding that after you provide the information to Cermak and Cermak clears or approves a detainee to be transferred to an outlying county, Cermak then forwards the medical history of an individual detainee to the outlying county; correct?

A. Yes.

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Q. And then the outlying county then has an opportunity to independently review the medical history of the detainee, and then they determine if they are going to accept a detainee. Would that be fair to say?

A. Yes.

Q. Now, is there a contract that Cook County Jail, Cook County Department of Corrections or Cook County has with the outlying jail which would determine what sort of level of care the outlying county would provide for detainees?

A. Yes.

Q. And why don't we just get to this one now. I'm showing you what is being marked as -- we're going to go backwards. I apologize. Okay. Director, I'm showing you what's going to be marked as --

MR. PASQUINELLI: Counsel, this is Brown Supp 5 through 8. Excuse me. Brown Supp 5 through 9.

If we can mark this Defendant's Exhibit No. 1, please.

(WHEREUPON, Defendant's Exhibit No. 1 was marked for identification as of 06/09/2015.)

BY MR. PASQUINELLI:

Q. Director, I'm showing you what has been marked TOOMEY REPORTING (312) 853-0648

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as Brown -- strike that.

I'm showing you what has been marked as Defendant's Exhibit No. 1 for purposes of this deposition. Director, do you recognize what that is?

A. Yes.

Q. And can please tell me? Director, isn't that a copy of the Intergovernmental Agreement Between Kankakee County and Cook County, Illinois, with respect to the relocation of detainees?

A. Yes.

Q. And, sir, does that describe on the second page, Brown Supp 6, paragraph D, subsection 4, it describes the medical services, and within there it does indicate that the outlying county, Kankakee County, shall provide all necessary medical services to the Cook County detainees; correct?

A. Yes.

Q. And, Director, you rely upon the medical professionals within Cook County Health Services and the medical professionals within the Kane County system to determine if an inmate can be properly relocated and accepted for relocation. Would that be fair to say?

A. Yes.

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Q. Director, the policy that you just described for me, and again you described that for Mr. Morrissey as well and I just tried to summarize it a little bit more, but that policy that you described, was that specific policy, the email communications back and forth and the communication with Cermak Health Services and so on prior to a detainee being relocated, was that policy, technical policy ever discussed with Sheriff Dart at the weekly Sheriff's meetings that you've had with him?

A. Not that I'm aware of.

Q. And was that specific policy that we just talked about, has that policy ever been discussed at the, uhm, I believe you said Division V management meeting that involves Cermak?

A. Not that I'm aware of.

Q. And those are two meetings that you personally attend; correct?

A. Yes.

Q. And throughout your experience in being involved in those meetings, you don't recall ever the procedure that you just described for us ever being brought up as a topic of conversation or it should be modified or things of that nature; correct?

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A. Yes.

Q. Director, I want to now direct your attention to now, just generally, Director, when a -- based upon your experience in working in the jail, when a detainee requires to be treated off the jail campus at an outside location how is the Sheriff's Office notified that a detainee requires to be treated off site? Who tells you?

A. Someone from Cermak.

Q. And you described that -- well, let's talk a little bit more about that process. I want to show you what's being marked now as defense exhibit --

MR. PASQUINELLI: Counsel, this is marked as Exhibit 1 --

MR. MORRISSEY: Sure.

MR. PASQUINELLI: -- currently, but I'm just going to rename this as Defense 2. It spans from COOK 279, 280, 281, 282, 283 through Brown Supp 26 through Brown 34 and it's inclusive of Brown Supp 2.

(WHEREUPON, Defendant's Exhibit No. 2 was marked for identification as of 06/09/2015.)

BY MR. PASQUINELLI:

Q. Director, I'm showing you what has been marked TOOMEY REPORTING (312) 853-0648

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as Defense 2. The first page, Director, that first page, that's not a page that the Sheriff's Office ever reviews; correct?

A. Yes.

Q. Okay. Let's turn the page now to COOK 280 through COOK 2 -- I'm sorry, COOK 283. Director, I'm showing you those Bates-stamped pages, and up on top it says Patients Scheduled For Offsite Treatment. It's dated Friday, February 8, 2013. Do you see that?

A. Yes.

Q. Okay. Is this form the form that's provided to the Sheriff's Office to notify the Sheriff's Office when a particular detainee is scheduled for offsite treatment?

A. Yes.

Q. And is there any other form other than this form that's provided to the Sheriff's Office to notify the Sheriff's Office when a detainee is scheduled for offsite treatment?

A. No.

Q. This is the only form; correct?

A. Yes.

Q. And, again, you receive that form the day of
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a particular inmate requiring treatment; correct?

A. Yes.

Q. And we're looking at, this is the form for Friday, February 8, 2013, and we see an individual by the name of Brandon Brown; correct?

A. Yes.

Q. And these forms, these forms are kept in the regular course of business at the Sheriff's Office. True?

A. Yes.

Q. And these are forms that are relied upon by you and your staff throughout the operations of the jail system; correct?

A. Yes.

Q. And, again, we see the plaintiff in this case, Brandon Brown's name as the name here. True?

A. Yes.

Q. And we also see a, turning to page -- counsel, it's COOK 281 -- a patient scheduled for offsite treatment; date Monday, April 8, 2013. Do you see that?

A. Yes.

Q. And there's another one there, it says Patient Brandon Brown is scheduled for treatment on that day.
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Do you see that?

A. Yes.

Q. And it also has a "CT" that's next to the date. What does that mean?

A. Court.

Q. And, Director, when there's a situation where there's a court date and a date for treatment, what does the jail do?

A. Take the inmate to court.

Q. And is that because there's a court order requiring the detainee's presence at a court proceeding?

A. Yes.

Q. And you're required under law to follow that court order?

A. Yes.

Q. And so you then, in the instance when you have a court order requiring the Sheriff of Cook County to bring a detainee before a particular court, you follow that lawful order; correct?

A. Yes.

Q. I want to also turn the page to Monday, May 6, 2013. We see the name of plaintiff, Brandon Brown, there as well?

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A. Yes.

Q. And there's no indication over here that Mr. Brown did not make that appointment; correct?

A. Yes.

Q. As a matter of fact, it does indicate that he did make that appointment. Is that true?

A. Yes.

Q. Turning the page to Friday, June 14, 2013, we see the name of Brandon Brown there as well; correct?

A. Yes.

Q. And, again, that record there indicates that Mr. Brandon Brown was properly transported to the area where he was -- where Cermak requested him to be transported to; correct?

A. Yes.

Q. And there's no indication on that record that Mr. Brandon Brown was not transported to Stroger on that day; correct?

A. Yes.

Q. And then we turn to the pages continuing. This is Brown Supp 26. Again, that says Friday, February 8, 2013. This may be cumulative of the other stuff that we saw previously, Director, but this also indicates,
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1 though, February 8th Mr. Brandon Brown was scheduled
2 for treatment at Stroger Hospital; correct?

3 **A. Yes.**

4 Q. And we also have Friday, March 8, 2013, that
5 Mr. Brandon Brown was scheduled; is that correct?

6 **A. Yes.**

7 Q. And so on and so forth: April 8th, May 6th,
8 June 14th.

9 Now I want to turn to the last page
10 where it says Monday, June 3, 2013. Do you see that
11 page there, Director?

12 **A. Yes.**

13 Q. And you have had an opportunity and I represent
14 to counsel that currently all the names have been
15 redacted; correct?

16 **A. Yes.**

17 Q. And the various detainee numbers are redacted
18 as well. Is that true?

19 **A. Yes.**

20 Q. Both on Brown Supp 31, Supp 32, Supp 33, and
21 Supp 34; correct?

22 **A. Yes.**

23 Q. And, again, these are the -- the title of this
24 is Patients Scheduled For Offsite Treatment; is that
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1 right?

2 **A. Yes.**

3 Q. And this is the same manifest that we
4 previously had looked at which identifies individual
5 detainees that are transported to outlying facilities
6 for medical treatment; correct?

7 **A. Yes.**

8 Q. And these are the orders that you receive from
9 Cook County or from the Cook County Health Services
10 the day of those various treatments dates. Is that
11 true?

12 **A. Yes.**

13 Q. And again, Director, these are all blacked out,
14 but you had the opportunity to review an unredacted
15 version of this; is that right?

16 **A. Yes.**

17 Q. And within that unredacted version, was the
18 name Mr. Brandon Brown identified on any of the Cermak
19 Health Services orders informing the Sheriff's Office
20 on June 3, 2013, that Mr. Brown was required to be at
21 Stroger on that day?

22 **A. No.**

23 Q. And the last page is Brown Supp 2. Director,
24 this page, counsel had basically asked you a lot of
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1 questions about this page. Specifically, I want to
2 direct your attention to the Interagency Health
3 Inquiry section (indicating).

4 You had indicated that there was not
5 an interagency health inquiry that is completed.
6 Do you recall that testimony?

7 **A. Yes.**

8 Q. However, Director, you do, as you've
9 previously noted for us, you do send a copy of the
10 list of inmates to Cermak Health Services for them
11 to review and determine medically if an individual
12 inmate can be transferred or relocated to an outlying
13 county; correct?

14 **A. Yes.**

15 Q. So, in essence, that is an interagency inquiry.
16 True?

17 MR. MORRISSEY: I object. That's
18 mischaracterizing what interagency is.

19 BY MR. PASQUINELLI:

20 Q. Okay. But basically what we're getting at
21 is that previously you had indicated on the form the
22 various bases for why Cermak or why the health
23 department would deny a particular inmate relocation.
24 Would that be fair to say?

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1 **A. Yes.**

2 Q. And they would provide that information to you?

3 **A. Yes.**

4 Q. Okay. And what sort of inquiry would you make
5 to them, asking them about the particular inmate?
6 Would you ask them, hey, is there any issue with
7 Inmate A or Inmate B?

8 **A. We would just send the list.**

9 Q. Okay.

10 **A. Then they would just respond if they can or
11 can't go.**

12 Q. So at one time Cermak was sending back to
13 you the medical reasons why a various inmate could
14 not be relocated; correct?

15 **A. Not specifically what the medical reason was.**

16 Q. Okay.

17 **A. But that they wouldn't go for medical reasons.**

18 Q. Okay. And they would list that. They would
19 say that to you; right?

20 **A. Yes.**

21 Q. Okay. But at some point you identified in
22 your deposition that that practice changed and they
23 no longer were providing those specific bases to you
24 as to why a particular inmate was not going to be
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permitted to be relocated; correct?

A. Yes.

Q. Okay. In March of 2013 through July of 2013 was Cermak providing you with specific information as to why an inmate could not be relocated to an outlying county?

A. No.

Q. And they had informed you or your understanding is that the law prohibits you from having that information; is that correct?

A. Yes.

Q. Okay. But where it says "inquiry form," can we agree that the Sheriff does make an inquiry to Cermak by allowing them to review a patient's medical history prior to being relocated or prior to being relocated to an outlying county, can we agree that the Sheriff's Office does request Cermak to either approve or disapprove of the medical situation of a detainee prior to relocation?

A. Yes.

Q. And we talked a little bit about, okay, we discussed the issue with transportation. Let's take a look at what's been previously marked as --

MR. PASQUINELLI: Counsel, I'm going to, I
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think I have to change this exhibit number too.

Let's take a look at Brown Supp 21 through Brown Supp 25, and if in the court reporter could please mark this as Defense Exhibit No. 3.

(WHEREUPON, Defendant's Exhibit
No. 3 was marked for
identification as of 06/09/2015.)

MR. PASQUINELLI: Are you there, counsel, on the different pages?

MR. MORRISSEY: Yes.

BY MR. PASQUINELLI:

Q. Okay. Director, this is Defendant's Exhibit No. 3, and can you please tell me what this exhibit is, what this contains?

A. It's the logbook for Transportation.

Q. Okay. And that was the logbook that you talked to counsel about during part of your deposition; correct?

A. Yes.

Q. And also the second page is an External Operations logbook as well; is that right?

A. Yes.

Q. And these two pages that you're looking at, these several pages that you're looking at, one's
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from Fantus cancellations from April 8, 2013. Do you see that?

A. Yes.

Q. And there is the name Brandon Brown there as well. Do you see that?

A. Yes.

Q. And what is the reason indicated on that Scheduled Fantus Cancellations Notification form for why Mr. Brown's appointment was canceled?

A. Court at Markham.

Q. Okay. And then if we turn the page to Brown Supp 22 (indicating), the External Operations logbook, this is the Ex Ops' logbook from April 8, 2012 [sic]; is that right?

A. Yes.

Q. And this is the 0600 to --

A. 1400.

Q. -- 1400 shift?

A. Yes.

Q. All right. And if we turn the page to Brown Supp 23, we see "Brandon Brown"; is that correct?

A. Yes.

Q. And we see his ID number as 12-1102219; is that correct?

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A. Yes.

Q. And the reason or the location where it specifies for him is? What does that say there, sir?

A. Court.

Q. Okay. So based upon your review of what's contained in this particular exhibit, which is Defense Exhibit No. 3, sir, where was Mr. Brandon Brown on April 8, 2013?

A. He was at court.

Q. Okay. I want to show you also, sir, what has been marked, previously marked as Defense Exhibit No. 4.

MR. PASQUINELLI: Counsel, this is Brown 1 and Brown 2.

Ms. Court Reporter, if you could mark these exhibits as well.

(WHEREUPON, Defendant's Exhibit
No. 4 was marked for
identification as of 06/09/2015.)

BY MR. PASQUINELLI:

Q. Okay. Director Moreci, I'm showing you what's been marked as Defendant's Exhibit No. 4. Do you recognize what this exhibit is?

A. Yes, a booking card.

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Q. Okay. And there's various information that's contained in this booking card; is that correct?

A. Yes.

Q. And one of the pieces of information that's contained within this card is the date that a particular inmate is released; is that correct?

MR. MORRISSEY: Well, I object to the extent this isn't covered by my 30(b)(6). What you're expanding on is fine if you give me the courtesy.

MR. PASQUINELLI: No. I believe it goes to the allegations.

Just for the record, I'd just like to note that you had indicated in your pleadings that due to the Sheriff's policy and practice of failing to transport, your client was not transported to several surgery dates in July, I believe, through November of 2013, and I'm establishing the fact for the record that Director Moreci will testify based upon his review of the documentation as to the release date of Mr. Brandon Brown in this case.

MR. MORRISSEY: I'm fine as long as you give me the same courtesy to explore other areas.

MR. PASQUINELLI: You're free to ask questions about what we've just discussed; so...
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MR. MORRISSEY: And all other reasonable follow-up questions.

MR. PASQUINELLI: Well, counsel, we'll get there when we get there. Please let me just finish mine.

MR. MORRISSEY: I'm just letting you know you're opening up some territory here.

MR. PASQUINELLI: Well, I would just like to finish.

MR. MORRISSEY: Fine.

MR. PASQUINELLI: I gave you a lot of courtesy in your examination.

MR. MORRISSEY: Fine.

MR. PASQUINELLI: I would expect the same courtesy with mine.

MR. MORRISSEY: Okay.

MR. PASQUINELLI: I would appreciate it if you just please allow me to finish my examination. Thank you.

BY MR. PASQUINELLI:

Q. So, Director, just showing you what has been marked as Defendant's Exhibit No. 4, for identification, again this is a Cook County Jail History Card; is that right?
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A. Yes.

Q. And this contains some information on there as to the date Mr. Brandon Brown was released; is that correct?

A. Yes.

Q. And that date was July 15, 2013; is that right?

A. Yes.

Q. And the second page, Brown Supp 2, that record also indicates that he was transferred or remanded to the custody of the Illinois Department of Corrections on July 15, 2013; is that right?

A. Yes.

Q. There's an allegation, Director, that's been made in this case, there's been several allegations that have been made in the case that the Sheriff's Office lacks the necessary resources to -- strike that.

MR. PASQUINELLI: I'm going to withdraw that question. I'm going to withdraw that line of questioning altogether. If I could have one moment, please?

(WHEREUPON, a brief recess was had.)

MR. PASQUINELLI: Okay.
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MR. MORRISSEY: Are you done?

MR. PASQUINELLI: Yes. I don't have any more questions.

FURTHER EXAMINATION

BY MR. MORRISSEY:

Q. You have no personal knowledge what an Interagency Health Inquiry Form is; right?

A. Yes.

Q. That's correct?

A. Yes.

Q. And you're not aware of what documentation the Sheriff's Office is required to make in that form?

A. Can you rephrase that?

Q. I just want to make it clear when you were testifying previously, you were asked questions about -- strike that.

Do you know if the Sheriff is required to input any information into an Interagency Health Inquiry Form?

A. I'm not aware of that.

Q. Are you aware that the jail is under federal monitors?

A. Yes.

Q. Are you aware that part of the monitoring
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requires the Sheriff to use Interagency Health Inquiry Forms?

A. No.

MR. PASQUINELLI: Object. I believe this is outside the scope of 30(b)(6). Answer the question.

BY MR. MORRISSEY:

Q. You were looking at some documents titled Patients Scheduled for Offsite Treatment, and you reflected on a page from May 6, 2013, where you said -- strike that.

Monday, April 8, 2013, you testified there was a Patients Scheduled for Offsite Treatment form reflecting Mr. Brown had court that day; right?

A. What day was it?

Q. April 8, 2013.

MR. PASQUINELLI: Right here (indicating).
BY THE WITNESS:

A. Yes.

BY MR. MORRISSEY:

Q. Would one of the Sheriff's employees make that entry that he was in court?

A. Yes.

Q. Did the Sheriff make any entry into his computer database that Mr. Brown didn't attend his
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medical visit that day because he was in court?

A. No.

Q. Does the Sheriff of Cook County ever challenge Cermak's judgment regarding the delivery of medical care to prisoners at the jail?

MR. PASQUINELLI: Objection to the form of the question.

THE WITNESS: Can you reword that?

BY MR. MORRISSEY:

Q. Does the Sheriff challenge Cermak's judgment regarding providing medical care to the prisoners at the jail?

MR. PASQUINELLI: Objection to the form of the question.

THE WITNESS: I still don't understand it.

BY MR. MORRISSEY:

Q. You testified when Mr. Pasquinelli asked you questions that you rely on Cermak, the Sheriff relies on Cermak when deciding whether to move somebody to an outside jail; right?

A. Yes.

Q. And you also said, I believe, that Cermak's the individual or the entity responsible for health care for the prisoners at the jail?
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MR. PASQUINELLI: I don't believe he testified to that. Objection.

MR. MORRISSEY: All right.

BY MR. MORRISSEY:

Q. Is the Sheriff responsible for providing prisoners at the jail health care?

MR. PASQUINELLI: Objection, outside the scope of the 30(b)(6); outside the scope of the testimony. Objection, calls for a conclusion.

Objection, form.

BY THE WITNESS:

A. Cermak Health Services is responsible for the health care of the inmates.

BY MR. MORRISSEY:

Q. So would you agree that the Sheriff is not responsible for providing health care to the prisoners at the jail?

MR. PASQUINELLI: Same objections. This is outside the scope of the 30(b)(6).

BY THE WITNESS:

A. I believe the County is responsible.

BY MR. MORRISSEY:

Q. Have you ever observed the Sheriff of Cook County challenge Cermak's delivery of health care
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to prisoners at the jail?

A. No.

Q. Have you ever observed the Sheriff override a decision by Cermak regarding nursing staffing?

MR. PASQUINELLI: Objection. This is way outside the scope of the 30(b)(6). Objection, form, but answer the question subject to that, Director.

THE WITNESS: I don't understand the question.

BY MR. MORRISSEY:

Q. You're aware that the RTU opened within the past year; right?

A. Yes.

Q. And Cermak is responsible for staffing the RTU; correct?

A. Yes.

Q. Have you ever observed the Sheriff encourage Cermak to spread the staffing in the RTU?

MR. PASQUINELLI: Objection, form. Objection, foundation. Objection, outside of scope. Objection, relevance.

THE WITNESS: Can you reword that question?

BY MR. MORRISSEY:

Q. Sure. Have you ever observed Sheriff Dart discuss with Cermak the staffing of nursing care at
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the RTU?

MR. PASQUINELLI: Same objections, outside the scope of the 30(b)(6). Objection, form.

BY THE WITNESS:

A. No.

BY MR. MORRISSEY:

Q. Who sets the weekly meetings with Sheriff Dart?

MR. PASQUINELLI: Objection. I believe that's been asked and answered, but answer the question.

BY THE WITNESS:

A. I would believe his secretary does.

BY MR. MORRISSEY:

Q. Does Sheriff Dart run the Sheriff's meetings that are held weekly?

MR. PASQUINELLI: Objection. This is outside the scope of the 30(b)(6). Answer the question.

BY THE WITNESS:

A. Yes.

BY MR. MORRISSEY:

Q. Does the Sheriff ever set on the agenda the relocation of prisoners to outside jails?

A. No.

MR. PASQUINELLI: Same objections, but answer the question.

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BY MR. MORRISSEY:

Q. Are there minutes kept of the Sheriff's weekly meetings?

A. I'm not aware.

Q. How are you notified of the Sheriff's weekly meetings?

A. How am I notified?

Q. Correct.

A. With an email.

Q. Who emails you?

A. His secretary.

Q. And what's the secretary's name?

A. Right now it's Tim Kaufman.

Q. In front of you is Defendant's Exhibit No. 2. Do you see that?

A. Yes.

Q. As a member of the Sheriff's Department, have you ever seen that document before?

MR. PASQUINELLI: I'm sorry. I'd object to that. What specific page are the referring to, Counsel?

MR. MORRISSEY: I'm looking at the first page of Exhibit 2, which is COOK 279.

THE WITNESS: Can you repeat the question?

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BY MR. MORRISSEY:

Q. Have you ever seen this document before or are you familiar with reading this document, Exhibit 2, which is Bates-stamped COOK 279?

A. Not before today, no.

Q. Do you know why there are appointments scheduled in August and September for Mr. Brown when you previously testified he was outside the Cook County Sheriff's custody?

A. Can you repeat that?

Q. Do you remember previously testifying Mr. Brown left the Sheriff's custody in July of 2013?

A. Yes.

Q. Do you know what Exhibit 2 in front of you is, this printout?

MR. PASQUINELLI: Objection. That's been asked and answered.

BY THE WITNESS:

A. You just told me it was the scheduling.

BY MR. MORRISSEY:

Q. Before I told you, did you know it was a schedule document?

A. I could have figured it out.

Q. Do you know why there were scheduling entries
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for Mr. Brown in August and September 2013?

A. Yeah, because they don't know when he's going to leave.

Q. Does the Sheriff tell Cermak when a prisoner leaves?

A. Not that I'm aware of. They probably do. I don't know.

MR. MORRISSEY: Nothing further.

MR. PASQUINELLI: Okay. We'll reserve the Director's testimony.

FURTHER DEPONENT SAITH NOT.

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

BRANDON BROWN,)
)
Plaintiff,)
)
v.) No. 14 CV 7945
)
THOMAS DART, SHERIFF OF)
COOK COUNTY, et al.,)
)
Defendants.)

I hereby certify that I have read the foregoing transcript of my deposition, consisting of pages 1 through 91, given at the time and place aforesaid, taken before KATHLEEN M. DUFFEE, CSR, and I do again subscribe and make oath that the same is a true, correct, and complete transcript of my deposition so given as aforesaid and includes changes, if any, so made by me.

DANIEL K. MORECI

SUBSCRIBED and sworn to
before me this day
of .

Notary Public
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STATE OF ILLINOIS)
) SS:
COUNTY OF COOK)

I, KATHLEEN M. DUFFEE, a Notary Public within and for the County of Cook, State of Illinois, and a Certified Shorthand Reporter of said state, do hereby certify:

That previous to the commencement of the examination of the witness, DANIEL K. MORECI, designated Rule 30(b)(6) representative, he was first duly sworn to testify the whole truth concerning the matters herein;

That the foregoing deposition transcript was reported stenographically by me, was thereafter reduced to typewriting via computer-aided transcription under my personal direction, and constitutes a true record of the testimony given and the proceedings had;

That the said deposition was taken before me at the time and place specified;

That the reading and signing by the witness of the deposition transcript was not waived;

That I am not a relative or employee of attorney or counsel, nor a relative or employee of such attorney or counsel for any of the parties hereto, nor interested directly or indirectly in the outcome of

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this action.

IN WITNESS WHEREOF, I do hereunto set my hand and affix my seal of office at Chicago, Illinois, this 19th day of June, 2015.


KATHLEEN M. DUFFEE
Notary Public, Cook County, Illinois
My commission expires September 25, 2018



CSR Certificate No. 084-003497

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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

DONNELL FLORA,	)	15 C 1127
)	
Plaintiff,	)	Honorable Judge
	)	Matthew F. Kennelly
vs.)	
)	
THOMAS J. DART, et al.,	)	<i>Jury Demanded</i>
)	
Defendants.)	

AFFIDAVIT OF DANIEL MORECI

I, Daniel Moreci, being first duly sworn under oath, depose and state that the following is based upon my personal, firsthand knowledge that I can testify to, and that if I were called to testify, my testimony would be limited to the following topics:

1. I am currently employed as First Assistant Executive Director with the Cook County Department of Corrections (“CCDOC”). I have been employed by CCDOC since March 1, 1991.
2. As First Assistant Executive Director with CCDOC, I oversee Divisions I, and IX of the Cook County Jail, as well as CCDOC’s External Operations, Emergency Response Team, and Criminal Intelligence and Investigation Division. In my current position and prior positions with the CCDOC, I attended the “Sheriff’s Meetings” described in Paragraph 5 of *Plaintiff’s Notice of Rule 30(b)(6) Deposition*, dated October 5, 2015. (Attached hereto as Exhibit A.)
3. I have been designated by Sheriff Dart, pursuant to F.R.C.P. 30(b)(6), for the limited purpose of providing testimony responsive to the topics described in Paragraph 5 of *Plaintiff’s Notice of Rule 30(b)(6) Deposition*, dated October 5, 2015, attached hereto as Exhibit A.

SHERIFF'S MEETINGS, GENERALLY

4. I attended the weekly "Sheriff's Meetings" described in Paragraph 5 of Exhibit A, starting in 2009. The purpose of the weekly meetings was to discuss various issues related to the management of the Cook County Jail.

NOTIFICATION PROCEDURES

5. Based on my personal knowledge and recollection, the weekly "Sheriff's Meetings" occurred at the same date and time every week. Attendees were not notified in advance of each meeting, because they occurred at the same day and time each week.

AGENDA AND MINUTES

6. Agendas for each "Sheriff's Meeting" were not disseminated prior to or during each meeting.
7. Minutes for each "Sheriff's Meeting" not generated during or after each meeting.

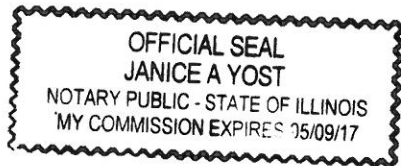
TOPICS OF DISCUSSION

8. Based on my personal knowledge and recollection of the "Sheriff's Meetings," the following topics were not discussed:

- a. assignments of wheelchair using detainees to various cells/living units at Cook County Jail;
- b. renovations at the Cook County Jail relating to compliance with the Americans with Disabilities Act;
- c. accommodations for wheelchair using detainees attending court at the various Cook County criminal court buildings located throughout Cook County, Illinois; and
- d. the assignment of detainees with mobility issues to the Residential Treatment Unit in August 2014.

Dated: December 10, 2015.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.



Subscribed and sworn to before me
this 10th day of December, 2015

Janice A. Yost
Notary Public

FURTHER AFFIANT SAYETH NOT


Daniel Moreci
First Assistant Executive Director
Cook County Department of Corrections

Exhibit A

particularly, the physical accommodations provided to plaintiff to toilet and access the sink.

2. From August 30, 2014 to the present, describe the physical features for each cell located on Tier 3-A of the Residential Treatment Unit that make each appropriate to assign a detainee who requires the use of a wheelchair. A copy of the blue print for the third floor of the Residential Treatment Unit is attached to this notice as exhibit 1.

3. From August 30, 2014 to the present, describe the policy and procedure to assign wheelchair using detainees to Tiers 3C, 3G, and 3F of the Residential Treatment Unit, including:

- a. The number of wheelchair using detainees permitted to be assigned to each living unit at one time;
- b. The physical accommodations in each tier to accommodate wheelchair using detainees; and
- c. The written policy and/or procedure regarding the assignment of wheelchair using detainees to these tiers.

4. In response to each housing assignment, please identify all physical accommodations provided to plaintiff Flora to shower and to access the toilet/sink combination located in each cell:

- a. From May 1, 2014 to August 5, 2014 when plaintiff was assigned to Div8-3N-DR;
 - b. From August 6, 2014 to August 10, 2014 when plaintiff was assigned to Div8-3S-3123-1;
 - c. From August 10, 2014 to August 21, 2014 when plaintiff was assigned to Div8-3S-3125;
 - d. From September 4, 2014 to September 23, 2014 when plaintiff was assigned to Div08-3A-3-7-2;
5. Thomas Dart, the Sheriff of Cook County, holds weekly meetings with jail leadership. First Assistant Executive Director Daniel Moreci testified in *Brown v. Dart*, 14 C 7945, these meetings are held at South Campus and run by Sheriff Dart. Similarly, Matthew Burke testified in *Roland v. Dart*, 14 C 10161, these meetings are attended by two to four people with Sheriff Dart. From January 1, 2013 to the present, identify the following information regarding these weekly meetings attended by Sheriff Dart:
- a. How participants are notified of each meeting.
 - b. Whether any agenda is disseminated prior to or during the meeting and, if so, the individual in possession of the agendas.

- c. Whether minutes are generated from each meeting and the individual or individuals in possession of the minutes.
 - d. The discussion, if any, of the assignment of wheelchair using detainees to various cells and/or living units.
 - e. The discussion, if any, of the 2014 ADA renovations at the Cermak Infirmary.
 - f. The discussion, if any, of accommodations for wheelchair using detainees attending court at Leighton, Markham, Bridgeview, Rolling Meadows, Skokie, and Maywood.
 - g. The movement of most wheelchair using detainees to the Residential Treatment Unit in August 2014.
6. There is a "Jail Management Meeting" held weekly at the executive director's conference room or the training area on the second floor of Division 5, according to Matthew Burke. The jail's leadership attends these meetings. From January 1, 2013 to the present, produce a designee to discuss the following information regarding the "Jail Management Meeting":
- a. How participants receive notice of the meeting and location;
 - b. The agenda for each meeting;
 - c. The minutes generated for each meeting, and the individual or individual who maintains these minutes;

- d. The attendance for each meeting;
 - e. Discussion, if any, regarding the assignment of living units to wheelchair using detainees;
 - f. Discussion, if any, regarding the movement of most wheelchair using detainees to the Residential Treatment Unit in August 2014;
 - g. Discussion, if any, regarding the physical barriers wheelchair using detainees encounter when attending court at Leighton, Bridgeview, Markham, Rolling Meadows, Skokie, and Maywood; and
 - h. Discussion, if any, regarding the physical alterations of the Cermak Infirmary in 2014.
7. From January 1, 2013 to the present, the Sheriff of Cook County's oversight of ADA issues at the Cook County Jail, including:
- a. The physical renovations to the Cermak Infirmary in 2014.
 - b. The relocation of most wheelchair using detainees to the Residential Treatment Unit in August 2014, including the individuals involved in making this decision.
 - c. The review of monitoring reports filed in *United States v. Cook County*, 10-cv-2946, relating to ADA issues.

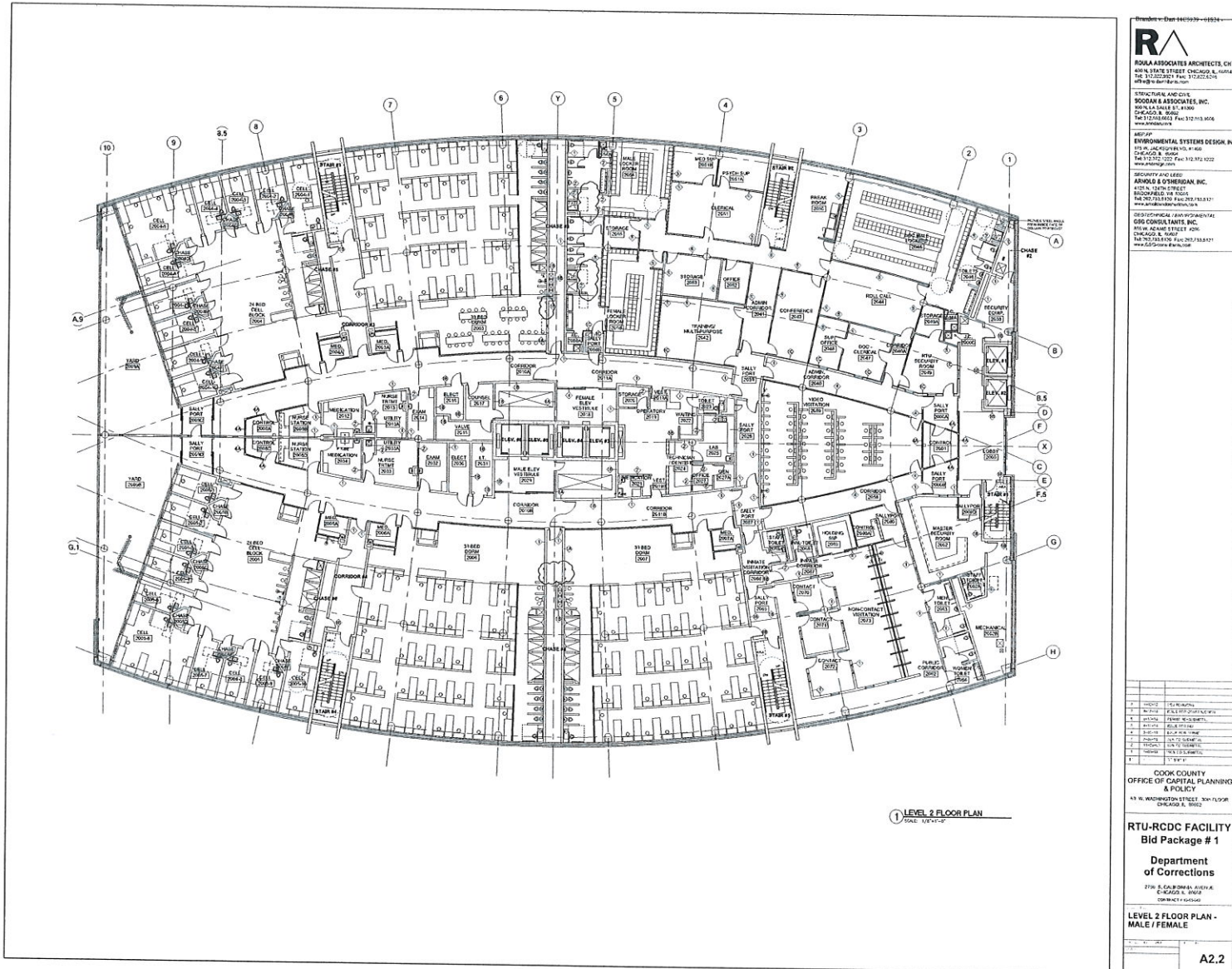
- d. The change in policy and/or procedure, if any, as a result of the monitoring reports filed in *United States v. Cook County*, 10-cv-2946, relating to physical barriers for wheelchair using detainees either at the jail or on occasion when he (or she) attends court.
- e. Pursuant to General Order 24.15.8.8, adopted in August 2014, the person (or persons) responsible for maintaining “a list of cells and/or living units that can appropriately accommodate individuals with qualified disabilities” and the location of this list.



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An attorney for plaintiff

Exhibit 1



CERTIFICATE OF SERVICE

I hereby certify that on the 5th day of October, 2015 I sent the foregoing by E-mail to James Nichols, 500 Richard J. Daley Center and David Condon, 69 W. Washington, Suite 2030, Chicago, Il 60602



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PLEASE TAKE NOTICE that I, James E. Nichols, Assistant State's Attorney, hereby certify that I sent a copy of the attached *Affidavit of Daniel Moreci* to the above-listed counsel at the above-stated addresses via electronic mail on December 11, 2015.

/s/ James E. Nichols
James E. Nichols

Transcript of the Testimony of
DAVID MORECI

Date: January 10, 2017

Case: UNITED STATES OF AMERICA v. COOK COUNTY,
ILLINOIS, ET AL

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January 10, 2017

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On behalf of the Defendant Cook County,
Illinois.

* * * * *

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IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.) No. 10 C 2946
)
COOK COUNTY, ILLINOIS; THOMAS)
DART, COOK COUNTY SHERIFF (in)
his official capacity); TODD H.)
STROGER, COOK COUNTY BOARD)
PRESIDENT (in his official)
capacity); COOK COUNTY BOARD OF)
COMMISSIONERS (in their official)
capacity);)
)
Defendants.)

The deposition of DAVID MORECI, called by the
Plaintiff for examination, taken pursuant to notice and
pursuant to the Federal Rules of Civil Procedure for the
United States District Courts pertaining to the taking of
depositions, taken before Shelley M. Bostetter, Certified
Shorthand Reporter and Notary Public, at
500 Daley Center, 5th Floor, Chicago, Illinois,
commencing at 11:10 a.m. on the 10th day of January,
A.D., 2017.

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(Witness sworn.)

WHEREUPON:

DAVID MORECI,
called as a witness herein, having been first duly sworn,
was examined and testified as follows:

DIRECT EXAMINATION

BY MR. MORRISSEY:

Q. Would you state your full name for the record,
please.

A. Daniel Kenneth Moreci.

MR. MORRISSEY: This is the discovery deposition of
Daniel Moreci taken pursuant to notice and taken at the
States Attorney's office at the request of the States
Attorney.

BY MR. MORRISSEY:

Q. Sir, I'm going to ask you a series of questions
in regards to the Division 1 and the Cook County Jail.
I'm going to ask you to answer the questions orally so
the court reporter can take down your responses. Is that
understood?

A. Yes.

Q. If at any time you don't understand one of my
questions, please stop me and I'll attempt to rephrase
it. Is that understood?

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A. Yes.

Q. If you answer the question, then I'll assume
you understood the question. Is that understood?

A. Yes.

Q. What is your current position with the Cook
County Department of Corrections?

A. First assistant executive director.

Q. For how long have you held that position?

A. About four years.

Q. Prior to that were you an assistant executive
director?

A. Yes.

Q. When did you become an assistant executive
director?

A. I believe it was in 2011.

Q. To about 2013?

A. Yes.

Q. In the year 2012, were you an assistant
executive director?

A. Yes.

Q. Were part of your responsibilities to supervise
Division 1?

A. I didn't have Division 1.

Q. As an assistant executive director, did you

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ever have responsibilities over Division 1?

A. No.

Q. What were your responsibilities as an assistant
executive director?

A. I overseen [sic] Division 9, the criminal
investigations intelligence division and our emergency
response team.

Q. I'm going to show you -- Do you recall being
deposed in a case called Brandon Brown versus Thomas
Dart?

A. No.

Q. That was a deposition on June 9th, 2015. It
was taken by a Patrick Morrissey. And you were
represented at that deposition, I believe, by a
Mr. Michael Pasquinelli. Does that refresh your memory?

A. No.

Q. And there was an attorney also for the Sheriff
by the name of George Vernasis (phonetic) there. Does
that refresh your memory?

A. No.

Q. Do you know a person by the name of George
Vernasis?

A. Yes.

Q. I'm going to show you Page 5 of your deposition

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that day, and I'd ask you to look at the questions that
were asked of you on Page 5 and your responses.

A. (Witness complying.) Uh-uh.

Q. Have you had an opportunity to read the
questions and answers in your deposition of June 9th,
2015?

A. Yes.

Q. And prior to that deposition, were you placed
under oath?

A. Yes.

Q. The same oath you took today?

A. Yes.

Q. And during that deposition, you told the truth,
correct?

A. Yes.

Q. Does that refresh -- Was this question asked of
you and did you give this response:

"QUESTION: Prior to being named

first assistant executive director,

what was your position?

ANSWER: Assistant executive director."

Was that question asked of you and did you give
that response?

A. Yes.

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Q. And was that accurate?

A. Yes.

Q. And the follow-up question was:

"QUESTION: What were your

responsibilities in that position?

ANSWER: I oversaw maximum security external operations, Division 1, Division 9, emergency response team, criminal investigations and intelligence."

Was that question asked of you and did you give that response in the deposition?

A. Yes.

Q. And was that -- And does that refresh your memory that as an assistant executive director at the jail, your responsibilities included overseeing maximum security?

A. Yes.

Q. And it also included Division 1?

A. Yeah. At that 2015 time. Yes.

Q. Now, you were not an assistant executive director in 2015?

A. Correct.

Q. You were the first assistant?

A. Correct.

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Q. So as an assistant executive director, your responsibilities included Division 1?

A. It's hard to explain because when I first made first assistant director, I didn't have Division 1. It was later given to me in 2014, I believe.

Q. But as assistant executive director -- The question at the deposition was, prior to being named a first assistant executive director, what was your position. Your answer was assistant executive director. And that was true, correct?

A. Yes.

Q. And as an assistant executive director, your responsibilities included Division 1, correct?

A. Yes.

Q. So in the year 2012, part of your responsibilities were Division 1?

A. No.

Q. Were you an assistant director in 2012?

A. Yes.

Q. And you became a first assistant director when?

A. In 2000- -- the end of 2012. I believe, December.

Q. So in December of 2012, you became a first assistant director?

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A. Correct.

Q. In December of 2012 -- Well, let me ask you again.

As assistant executive director, did you ever have responsibilities for Division 1?

A. Yes.

Q. And what period of time did you have responsibilities for Division 1?

A. I don't know the exact dates. When I first made assistant director I didn't have Division 1. It was later given to me right before I became the first assistant executive director.

Q. And you became first assistant in December of 2012, to the best of your recollection?

A. Yes.

Q. And in the year 2012, was Division 1 a maximum security division?

A. Yes.

Q. What is a maximum security division?

A. It's classic-issue. It deals with either the inmates' charges, criminal history or history done within the jail.

Q. Are there any divisions that have a higher level than maximum security?

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A. No.

Q. So Division 1 was the highest level of security at the jail?

A. Divisions 1 and 9.

Q. Are you familiar with a report by the Justice Department in July of 2008?

A. Report referring to ...

Q. The Cook County Department of Corrections by the Department of -- United States Department of Justice.

A. Yes.

Q. And that is approximately a 98-page report, correct?

A. I'm not sure.

Q. And in 2008, were you in a supervisory position?

A. Yes.

Q. What was your position in 2008?

A. I was a chief.

Q. In which division?

A. In 2008 -- I was in Division 9 for some part of the division in 2008, and then I was later transferred to Division 9 [sic].

Q. You're familiar with the fact that the sheriff in Cook County entered into an agreed order with the

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United States?

A. Yes.

Q. That was in 2010, correct?

A. I don't know the exact time.

Q. And you're aware of the fact that after the agreed order was entered into, there have been monitors at the Cook County Jail?

A. Yes.

Q. And there's monitors for healthcare, correct?

A. Yes.

Q. And there's monitors for sanitation?

A. Yes.

Q. There's monitors for security?

A. Yes.

Q. And was there a monitor by the name of Ms. Campbell?

A. Yes.

Q. And periodically the monitors write reports?

A. Yes.

Q. And you, as a first assistant and as an assistant executive director, review those reports when they come out by the monitors?

A. Yes.

Q. What are your responsibilities currently as

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first assistant?

A. I oversee Division 9, the criminal investigations, intelligence division and emergency response team.

Q. Who is the current executive director?

A. Micah Jones.

Q. In the organizational chart next to Ms. Jones, are you the highest ranking sworn officer at the jail?

A. No.

Q. Who is the highest ranking sworn officer at the Cook County Jail?

A. Micah Jones.

Q. Is she a sworn officer?

A. I guess.

Q. After Micah Jones, are you second in charge at the Cook County Department of Corrections?

A. No.

Q. Who is?

A. There's three people at the level of chief.

Q. What are their names?

A. Matthew Burke, Terry Williams and Jane Groupser (phonetic).

Q. Jane?

A. Jane Groupser.

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Q. How do you spell it?

A. I'm not sure of the spelling.

Q. Is Matt Burke, is he a sworn officer?

A. I'm not sure.

Q. You're a sworn officer, correct?

A. Yes.

Q. What did you do to become a sworn law enforcement officer in the State of Illinois?

A. I went through the academy.

Q. Did you -- Are you -- Were you required to take an oath?

A. Yes.

Q. Are there three chiefs you mentioned -- is it Terry Williams?

A. Yes.

Q. Are they on the same level as you are?

A. No.

Q. Do they report to you?

A. No.

Q. Do you report to them?

A. Yes.

Q. For how long has Matt Burke been a chief at the Cook County Department of Corrections?

A. I'd say about five or six years.

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Q. How long has Terry Williams been a chief?

A. Probably a little over a year.

Q. What are his responsibilities?

A. I report to him. I don't know exactly what he does other than what I do with him.

Q. Do you know what Jane Groupser's responsibilities are?

A. I believe she oversees programs.

Q. How long has she been in that position?

A. Probably about six months.

Q. Was she previously at the Department of Corrections?

A. Not to my knowledge.

Q. Was Terry Williams, before he became a chief, was he previously at the Department of Corrections?

A. Illinois Department of Corrections.

Q. In the year -- In December of 2012, was there a gentleman at the jail named Gary Hickerson?

A. No.

Q. Do you know who Gary Hickerson is?

A. Yes.

Q. Who is he?

A. He was the former executive director of the jail.

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Q. When did he leave the Cook County Department of Corrections?

A. In December.

Q. Of what year?

A. 2012.

Q. So in 2012 he was the executive director?

A. I believe his last day was November 31st [sic] because I got promoted December 1st and he wasn't the executive director.

Q. Was Ms. Jones the executive director then?

A. No.

Q. Who was?

A. John Murphy.

Q. Was there a Superintendent Martinez in Division 1 in December of 2012?

A. He was in Division 1, but I don't know the exact dates that he was there.

Q. His first name is Salvador?

A. Salomon.

Q. Is he still with the Department of Corrections?

A. Yes.

Q. What position?

A. Superintendent.

Q. In what division?

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A. Division 2.

Q. When did Division 1 close down?

A. I don't know the exact date. I would say three years now -- two, three years maybe.

Q. Division 1 didn't close in the first part of 2016?

A. I don't know the exact date.

Q. So it could have been last year?

A. It's very possible.

Q. Give me a definition of cross-watching?

A. On officer watches more than one tier.

Q. What is vertical cross-watching?

A. I don't know.

Q. Never heard of the term vertical cross-watching?

A. No.

Q. After the agreed order was executed by the Sheriff, the County and the U.S. Department of Justice in 2010, did the Sheriff maintain a practice of cross-watching at the Cook County Department of Corrections?

MR. NOWINSKI: Objection, form, speculation.

You can answer, if you can.

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BY THE WITNESS:

A. Yeah. I can't recall when we exactly stopped.

Q. In December of 2012, did the Department of Corrections have a practice of cross-watching?

A. No.

Q. How did you know that?

A. It was discussed in meetings.

Q. You're familiar with the Sheriff's meetings?

MR. NOWINSKI: Object to form.

BY THE WITNESS:

A. Which meetings?

Q. Pardon?

A. Which meetings?

Q. Meetings that are held weekly with Tom Dart and Matt Burke and yourself?

A. Yes.

Q. And Ms. Jones, correct?

A. Yes. They're not weekly though.

Q. How frequently do you -- What do you call those meetings?

A. I don't even know if they have a name. It's a jail meeting with the Sheriff.

Q. Who attends these jail meetings with the Sheriff currently?

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A. Myself, Micah Jones, Matt Burke, Terry Williams, Jane Groupser, Brad Curry, sometimes Cara Smith, Ellen Burke. That's about it.

Q. Who is Helen Burke?

A. She -- I believe her title is bureau chief. I don't know her exact title.

Q. Is she with the Department of Corrections?

A. No. She's with the Sheriff's department.

Q. How long has she been attending these Sheriff's meetings?

A. Always been there. Well, on and off. She's not at every one.

Q. At some point in time, did more employees of the Sheriff attend these meetings with Tom Dart?

MR. NOWINSKI: Object to form.

BY THE WITNESS:

A. Not these meetings. No.

Q. Were there other meetings that you attended with Tom Dart where there was a broader group of Sheriff's employees?

MR. NOWINSKI: Objection to foundation.

You can answer.

BY THE WITNESS:

A. Yes.

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Q. And who would attend those meetings?

A. Well, there was a lot of people there. I couldn't name everybody that was there.

Q. Would it be the superintendents that would meet with Tom Dart?

A. Yes.

Q. And Matt Burke would be there too?

A. Yes.

Q. And this was prior to Ms. Jones being the executive director?

A. Yes.

Q. During these meetings with Tom Dart where there was a smaller group of people, Micah Jones, Burke, Williams, Groupser and Brad Curry, did the topic of cross-watching ever come up?

A. Not that I recall.

Q. Prior to Micah Jones becoming executive director, at these meetings with Tom Dart, did the issue of cross-watching ever -- was it ever discussed?

A. Not that I can recall.

Q. You mentioned that you were uncertain when cross-watching stopped at the Cook County Department of Corrections?

A. Yes.

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Q. After the agreed order was entered, to your knowledge, was there ever cross-watching -- was there a practice of cross-watching in the maximum security divisions?

A. No.

Q. Was there any particular reason, after the agreed order was entered, that cross-watching was not permitted in the maximum security divisions?

MR. NOWINSKI: Object to speculation.

You can answer, if you know.

BY THE WITNESS:

A. Can you repeat that -- rephrase that?

Q. Sure. After May of 2010, when the agreed order was entered into with the Justice Department, why was cross-watching not a practice in the maximum security divisions?

MR. NOWINSKI: Object to speculation.

You can answer, if you can.

BY THE WITNESS:

A. From what I recall, we stopped it before that. And it wasn't just the maximum security division. It was the whole jail.

Q. Going back to your meetings with Tom Dart, either before or after Ms. Jones became the executive

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director, was there ever a discussion that on certain holidays that there was a large number of employees that would call in sick or absent at holidays?

A. There might have been. I remember discussions, but I can't say for sure.

Q. Are you personally aware, as the first assistant, that on certain holidays, such as, for instance, Mother's Day, Father's Day, maybe New Year's Eve, that there's a tendency for a lot of members of the Department of Corrections to call in sick?

MR. NOWINSKI: Object to form.

BY THE WITNESS:

A. I don't think Mother's Day is one of them, but I would say Christmas. And I can't remember another holiday that might be popular. But I know Christmas is a popular one.

Q. Is New Year's Eve also a popular day when correctional officers call in sick?

A. It might be a little bit more, but it's not a big one.

Q. How about Super Bowl Sunday? Was that a big one?

A. That's a big one. Yeah.

Q. You mentioned that that's been a subject

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with -- during your Sheriff's meetings with Tom Dart, that there's a high level of absenteeism on certain days of the year -- calendar days of the year?

A. Can you repeat that?

MR. MORRISSEY: Can you read it back?

(Record read as requested.)

MR. NOWINSKI: Objection. Misstates his testimony.

BY THE WITNESS:

A. It might have been discussed. I can't recall offhand exactly when or how.

Q. At the Sheriff's meetings or -- At the Sheriff's meetings, has there been any policy discussed in regards to dealing with high absenteeism on specific calendar dates that fall on Christmas or New Year's Eve or other dates?

MR. NOWINSKI: Object to foundation.

BY THE WITNESS:

A. Yeah. There might have been some discussion.

Q. What policy changes were discussed at the Sheriff's meetings to address high absenteeism on certain calendar dates during the year?

MR. NOWINSKI: Object to form, foundation.

BY THE WITNESS:

A. The only policy I think that we can -- I recall

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1 of anything was the -- our -- they had an absenteeism
2 program where there was a group of people that monitored
3 staffs' attendance. Attendance review committee or
4 something.

5 Q. Who was in charge -- Who was on that committee?
6 Was that a committee at the Cook County Jail?

7 A. Yeah. I believe so. I didn't have a lot to do
8 with it, so I don't have a lot of knowledge of that.

9 Q. Who was on the committee?

10 A. I couldn't even recall back then.

11 Q. In December of 2012, if an employee assigned to
12 Division 1 wanted to call in for whatever reason, a
13 specific date, how would they do that?

14 A. Call the medical line.

15 Q. What is the medical line?

16 A. It's where you call when you let us know you're
17 not going to make it to work.

18 Q. Is that a supervisor within Division 1 that you
19 would call?

20 A. No.

21 Q. Who staffs the medical line?

22 A. In 2012 I believe the calls were taken in
23 external operations.

24 Q. If a person called in on New Year's Eve in

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1 2012, what would he or she have to do to alert the
2 Sheriff that they weren't coming in?

3 A. To specifically alert the Sheriff.

4 Q. To alert the Department of Corrections that
5 they weren't going to come in.

6 A. They would call the medical line.

7 Q. In December of 2012, did Sheriff's employees
8 receive a certain number of medical days a year?

9 A. Yes.

10 Q. How many medical days?

11 A. 12.

12 Q. Could a -- Was there any penalty if a person
13 called in, let's say, on Christmas or New Year's Eve in
14 December of 2012 and just said, I've got the flu?

15 A. If they had a day to cover it, there was no
16 penalty, to my knowledge.

17 Q. Did they have to have a doctor's excuse if they
18 called in for one day on Christmas Day and New Year's
19 Eve?

20 A. No.

21 Q. Could their superintendent in Division 1
22 discipline a person if they called in, say, on Christmas
23 Day and say that they were sick?

24 A. Possibly.

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1 Q. How? What would the superintendent have to do?

2 A. If the employee had a pattern.

3 Q. What do you mean by "a pattern"?

4 A. Calls in every first day back or last day back
5 or on holidays.

6 Q. In the year 2012 in Division 1, do you know of
7 any officer that was disciplined for calling in on a
8 holiday that they were sick?

9 A. Not to my knowledge.

10 Q. Did the Department of Corrections keep
11 statistics in regards to the number of employees that
12 called in on a holiday like Christmas Eve or New Year's
13 Eve in December of 2012?

14 MR. NOWINSKI: Object to speculation.

15 You can answer, if you can.

16 BY THE WITNESS:

17 A. Yes. I believe they do.

18 Q. What kind of records do the Department of
19 Corrections maintain in December of 2012 of employees
20 that called in sick on, let's say, Christmas Day or New
21 Year's Eve?

22 A. I'm not familiar with that.

23 Q. I'm going to show you Exhibit No. 1. Showing
24 you Exhibit No. 1, it's an excerpt from the agreed order

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1 that was filed on May 26th, 2010 in the United States of
2 America versus Cook County, Illinois and Thomas Dart.
3 I'd ask you to take a look at what will be Page 14 of
4 that agreement. 14 under 33. I'd like you to read that
5 for a moment where it says absent exigent circumstances.

6 A. (Witness complying.)

7 Q. Have you had an opportunity to read it?

8 A. Uh-huh.

9 Q. You have to answer yes or no.

10 A. Yes.

11 Q. Do you agree that the definition of
12 cross-watching involves a CCDOC practice allowing one
13 correctional officer to simultaneously supervise two
14 housing units from the control center in one of the
15 units? Is that an accurate definition of cross-watching?

16 A. I think the statement is vague, and I don't
17 really understand what it's saying.

18 Q. Again, how would you expand on that definition
19 of cross-watching?

20 A. All I know is we didn't -- we don't
21 cross-watch.

22 Q. If in Division 1, which is a maximum security
23 unit -- if one officer was assigned to watch, let's say,
24 H2 and G2 at the same time, would that provide any

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security risks?

MR. NOWINSKI: Object to form.

BY THE WITNESS:

A. No more than any other time.

Q. Well, the question is in Division 1 -- Division 1 is broken into towers, correct?

A. Yes.

Q. And there's four towers?

A. Yes.

Q. And on Floors 2 through 4, across the hall there are two tiers, right, on each floor?

A. Yes.

Q. If in Division 1, an officer for whatever reason -- let's say the officer in G2 called in sick, and the officer in H2 was asked to watch during the 3:00 to 11:00 shift both the H2 and G2 tiers, would that cause any security risks in your -- to your knowledge, as the first assistant at the Cook County Department of Corrections?

MR. NOWINSKI: Object to form, asked and answered.

You can answer.

BY THE WITNESS:

A. He wouldn't be asked to watch two tiers.

Q. Why not?

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A. We would find somebody and assign them to the tier if the officer called in medical.

Q. Why wouldn't one officer be assigned to watch two tiers in Division 1?

A. Because every -- we have an officer assigned for every tier.

Q. Why is that your express policy?

MR. NOWINSKI: Object to form.

Go ahead.

BY THE WITNESS:

A. Because it's an assignment.

Q. My question is, what rational or reason in Division 1 is there for assigning an officer to each tier?

MR. NOWINSKI: Object to form.

BY THE WITNESS:

A. There's an officer assigned to every tier in the Cook County Jail, not just Division 1.

Q. I'm asking in regards to Division 1. Being a maximum security division, why is it required to have an officer assigned to each tier?

MR. NOWINSKI: Object to form, asked and answered.

BY THE WITNESS:

A. To supervise the tier.

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Q. And is it feasible for one officer to supervise two tiers at the same time in Division 1?

MR. NOWINSKI: Object to form.

You can answer.

BY THE WITNESS:

A. In my opinion it is.

Q. And if one officer supervises two tiers in December of 2012, does that create any security risks?

MR. NOWINSKI: Object to form.

BY THE WITNESS:

A. Security risks as to how?

Q. Well, does that present -- if one officer is left to supervise two tiers in Division 1 in December of 2012, does that create a potential risk to the officer?

A. No.

Q. If one officer is assigned to watch two tiers in December of 2012, does that present a danger to the inmates within either tier?

MR. NOWINSKI: Object to form.

BY THE WITNESS:

A. There's a danger to inmates whether there's an officer there or not.

Q. Well, does that create -- Is there an enhanced danger to inmates if one officer, in December of 2012,

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was assigned to supervise two tiers?

A. I couldn't even answer that.

Q. Why not?

A. Because I just don't -- The enhanced danger is there is none. There's an enhanced danger if there's no officer up there.

But an officer can properly see and hear in Division 1 unlike any other division if he's up there on the floor. There's not only sight, there's sound too.

Q. So in December of 2012, one officer assigned to supervise H2 and G2 could hear any commotion in either tier?

MR. NOWINSKI: Objection, form, incomplete hypothetical.

BY THE WITNESS:

A. Yes, he could.

Q. And if one officer was assigned to the H2 or G2 tiers, and at one point -- let's say he was in Tier G2, he could see into H2 to prevent any type of injury to -- potential injury to an inmate in H2?

MR. NOWINSKI: Object to form.

Go on.

BY THE WITNESS:

A. Can you define as to how he was in the tier?

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Q. Well, let's say in H2 and G2, both tiers have an officer desk, correct?

A. Yes.

Q. And let's assume that there was only one officer for both G2 and H2, and the officer is sitting at his or her desk in G2. Would that officer be able to see into the dayroom in H2?

A. Yes.

Q. And he or she would be able to properly supervise the activities in the H2 dorm from the G2 tier?

MR. NOWINSKI: Object to form.

BY THE WITNESS:

A. Yes.

Q. Do officers, in December of 2012 in Division 1, were they permitted to have a lunch break?

A. If we had coverage.

Q. I'm going to show you what's been marked as Plaintiff's Exhibit No. 2. It's been produced by the defendants as Sheriff's Bates-stamp 004871. It's a multiple-page document, and it's entitled Multilevel Vertical Relief Program dated November 10th -- I'm sorry -- November of 2010, resubmitted July 2011. Have you seen this document before?

A. Yes.

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Q. Do you know a Commander Michael Dembosz?

A. Yes.

Q. How do you know him?

A. By working at the jail.

Q. In December -- When this was authored in November of 2010, do you know what his position was at the jail?

A. Captain or commander, maybe.

Q. Was there a division called administration in the programs at that time, 2010?

A. There might have been.

Q. Is he still with the jail?

A. No.

Q. When did he retire?

A. I'd say, I think, in '13 or '14.

Q. Is he still in the Chicago area?

A. I don't know where he's at.

Q. When was the last time you saw him?

A. Probably the day he retired.

Q. Do you know an Antonio Imhof?

A. Yes.

Q. Was he a lieutenant at the Cook County Department of Corrections?

A. Yes.

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Q. Was he in Division 1?

A. Yes.

Q. And was Dembosz in Division 1?

A. Yes.

Q. Did you supervise both of those gentlemen?

A. No.

Q. When was the first time you saw this document, Multilevel Vertical Relief Program?

A. Probably last week.

Q. In preparation for this deposition, what documents did you look at?

A. This (indicating).

Q. By "this," you mean the Multilevel Vertical Relief Program?

A. Yes.

Q. Any other documents?

A. And an OPR investigation.

Q. Do you know an Officer Rottar?

A. Yes.

Q. He was in Division 1 in December of 2012, correct?

A. I believe so.

Q. Did you review Officer Rottar's deposition?

A. No.

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Q. Do you know who authored Exhibit 2?

A. I believe Commander Dembosz.

Q. Do you know who Commander Dembosz worked for in November 2010 and July 2011?

A. No.

Q. During your Sheriff's meetings with Tom Dart, either the smaller group or the larger group, was the issue of vertical link program ever discussed?

A. Not that I can recall.

Q. Are there minutes or documents that are exchanged during the Sheriff's meetings?

A. Not that I know of.

Q. Are you familiar with the term premium lunch pay?

A. Yes.

Q. What is that?

A. If an officer does not take his lunch, he receives a one-hour compensation.

Q. Is that at one and a half times his or her normal pay?

A. Yes.

Q. Is that pursuant to the union contract?

A. Yes.

Q. Have you -- In December of 2012, were

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superintendents required to approve premium lunch pay?

A. Yes.

Q. Did superintendents, in December of 2012, have to report to you or any other administrator at the jail in regards to how many premium lunch pay they had authorized?

A. It was an overtime report completed weekly.

Q. Would that be prepared by the superintendent of each division?

A. Yes.

Q. This report -- Are those reports maintained in the normal course of business?

MR. NOWINSKI: Object to speculation.

BY THE WITNESS:

A. Can you rephrase that?

Q. Sure. Those reports are official documents in the Department of Corrections --

A. Yes.

Q. -- the overtime -- is it just called an overtime report?

A. I'm not sure of the exact name for it.

Q. Did they have those reports in 2012?

A. To my knowledge, yes.

Q. Do they have them currently?

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A. Yes.

Q. Are they still prepared weekly by the superintendent of each division?

A. Yes.

Q. And after a superintendent prepares this overtime report, where does he or she send it?

A. To the director's office.

Q. In 2012, was there a director that was responsible for receiving those overtime reports?

A. I believe Mike Holmes did, but I'm not positive.

Q. Is Mike Holmes still at the Department of Corrections?

A. Yes.

Q. What was his title in 2012?

A. I believe he was an assistant director.

Q. So is he still an assistant director?

A. He's a first assistant director.

Q. Your title is first assistant director?

A. Uh-huh. Yes.

Q. How many people with the title of first assistant director are there at the Cook County Department of Corrections?

A. To my knowledge, just me and Mike Holmes.

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Q. Currently what are Michael Holmes' responsibilities?

A. He works in case review.

Q. During your meetings with Thomas Dart in 2012, was there ever any discussion in regards to these overtime reports?

A. Not that I can recall.

Q. In 2010 and 2011, was there ever any discussions with Thomas Dart in regards to overtime pay at the Department of Corrections?

A. Not that I remember.

Q. In your meetings with the executive director in 2010 and 2011, were there ever any discussions in regards to overtime pay?

A. Yes.

Q. Who did you discuss that issue with in 2010 and 2011?

A. To the best of my knowledge, I'd say with the directors and the superintendents.

Q. Were there weekly meetings between the directors and the superintendents in the period between 2010 and 2012?

A. Yes.

Q. Are those held -- Were those meetings held on

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the second floor of Division 5?

A. Yes.

Q. There was a conference room there, correct?

A. Yes.

Q. And is that still the case today, that you still have weekly meetings with the superintendents and the directors on the second floor of Division 5?

A. No.

Q. Are there still meetings with the superintendents and the directors on a weekly basis?

A. No.

Q. On a regular basis, are there meetings between the directors and the superintendents?

A. What's a regular basis?

Q. Well, I mean, is it once a month, once every two weeks?

A. I don't even recall the last time we had one.

Q. When did this practice of having weekly meetings with the directors and the superintendents at the jail cease?

A. I'd say a little over a year ago.

Q. So in 2012, during these weekly meetings with the management and policymakers at the jail, were there discussions in regards to with overtime with the

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superintendents?

MR. NOWINSKI: Object to form, foundation.

You can answer.

BY THE WITNESS:

A. Yes.

Q. And in 2012, was there any emphasis on cutting back on overtime pay at the Department of Corrections?

A. There's always talk of trying to cut overtime.

Q. And was -- In 2012, at these policy-maker meetings with the superintendents, was the issue of premium pay for lunch ever discussed?

MR. NOWINSKI: Object to form, foundation.

BY THE WITNESS:

A. I'm sure it was.

Q. To what extent could -- in the year 2012, could a superintendent of division -- Let me rephrase that.

Under what circumstances could a superintendent in the division in 2012 approve premium lunch pay?

A. If there was no staff to do lunch reliefs.

Q. In December of 2012 in Division 1, was there a person or persons assigned on each shift to provide lunch relief to the tier officers when they went for their break?

MR. NOWINSKI: Object to speculation.

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You can answer, if you know.

BY THE WITNESS:

A. There was a few.

Q. And what would -- And in Division 1, there are various posts in Division 1 in December of 2012 in addition to being a tier officer, correct?

A. I didn't understand that question.

Q. Sure. In Division 1 in December of 2012, there were assigned posts, correct?

A. Yes.

Q. And there were employees that were assigned for different functions other than providing security for tiers, correct?

A. Yes.

Q. In the G and -- H and G tower in December of 2012, what officer or post would be used to provide lunch relief?

A. In 2012 I didn't have nothing to do with Division 1, so I can't really answer a lot of these questions having that knowledge. I could speculate.

Q. You mentioned that in 2012 you did have responsibilities at some point for Division 1?

A. Yes.

Q. During the time in 2012 when you were a

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supervisor in Division 1, what officer or officers would be used to provide relief in the H and G towers?

A. An activity officer, a movement officer, a Cermak officer, possibly a post officer.

Q. When correctional officers came into work on the 3:00 to 11:00 shift in December of 2012, do they appear at rollcall?

A. Yes.

Q. And that would be conducted by the lieutenant?

A. A commander.

Q. Do you know a Sergeant Futser (phonetic)?

A. Yes.

Q. Is she still at the Cook County Department of Corrections?

A. I don't believe she is. I haven't seen her in a while.

Q. Did she retire?

A. She might have.

Q. During rollcall, after -- Strike that.

During rollcall, were officers assigned to provide relief for tier officers who were going to go to lunch that day or afternoon?

A. It depends who held rollcall.

Q. Whose responsibility in Division 1 was it to

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assign officers to provide relief for tier officers going to lunch?

MR. NOWINSKI: Object, foundation and form.

BY THE WITNESS:

A. The sergeant.

Q. Would the sergeant also inform the tier officer in regards to what time during his or her shift they would go to lunch?

A. Yes.

Q. I'm going to show you what's being marked as Plaintiff's Exhibit No. 4, a general order that was issued on October 31st, 2014 -- general order of 24.1.25.1. It's Bates-stamped Sheriff 1, and it's a multiple-page document. What is a general order?

A. Centralized Roster Management and Staffing Analysis.

Q. The question is, what is a general order at the Department of Corrections?

A. It's orders put out by the Department that we have to follow.

Q. Prior to October of 2014, was there a previous general order that dealt with centralized roster management and staff analysis?

A. There was a roster management order, and I'm

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not sure about the staffing analysis.

MR. MORRISSEY: We asked for that document. I'm renewing my demand for the general order that pertained to the centralized roster management in December of 2012 which was part of our production request.

MR. NOWINSKI: Okay.
BY MR. MORRISSEY:

Q. What is a master roster?

A. It's the roster that's produced every 90 days to show the officers where they're assigned.

Q. Does the -- And that's a form that comes out every 90 days in Division 1 in 2012?

A. In every division.

Q. So in 2012 there was a form called a master roster for Division 1?

A. Yes.

Q. Does the master roster form reflect if an officer or officers call in sick, let's say, on Christmas Day?

A. I don't understand that.

Q. Sure. Does the master roster reflect -- Strike that.

The master roster would have the names of specific officers assigned to Division 1, correct?

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A. Yes.

Q. And would it further indicate what tier on officer might be assigned to during that 90-day period?

A. Yes.

Q. Does the master roster reflect, during that 90-day period, whether an officer might have called in sick or not?

A. No.

Q. What is the form called daily roster?

A. Payroll.

Q. Pardon?

A. Payroll.

Q. What information is on the daily roster?

A. All the officers that are assigned that day, supervisors who are assigned.

Q. Does the daily roster come out a week or two beforehand?

A. No.

Q. How frequently are the daily rosters issued?

A. Daily.

Q. Do you see on Page 4 under 3B, it says, the daily roster shall be prepared on a biweekly schedule and at least one week in advance to accommodate anticipated leave scheduling?

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A. Yes.

Q. Is that the policy at the Department of Corrections that the daily roster comes out at least one week in advance?

A. Yes.

Q. So that if today is January 10th, 2017, the daily roster for January 17th, 2017 has already been issued?

A. Yes.

Q. And the daily roster -- So how much -- What is the practice as far as how much time in advance are the daily rosters issued?

A. A daily roster, how I was saying was done daily, is like today, I don't know who's going to call in sick until I get to work. So the daily roster is done that day when I come in. So it's already -- There's already a posted roster who's supposed to be there, but we prepare a daily roster when we first walk in the door. Because you have to see who called in medical, if there was any transfers or somebody sent for training. So it's actually done daily specifically for that day.

Q. But just to narrow this down, you have the daily roster in advance, correct? You can pull up the people that are supposed to be in next week assigned on

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January 17th, 2017, correct?

A. Yes.

Q. And then on a specific day there's another alteration of that daily roster which reflects the people that actually may have called in sick or had some type of leave?

A. Yes.

Q. And who's responsible within a division on a specific day to take the pre-prepared daily roster and change it to reflect who actually came in during a shift?

A. The shift commander.

Q. And what do you call the actual altered daily roster which reflects those people that called in sick or were excused for whatever medical or family reason?

A. It's the daily roster along with the payroll. It's all one report together.

Q. Let me try to clarify. I'm showing you what is marked as Plaintiff's Exhibit No. 5. It's been Bates-stamped by the Sheriff, 5385. It's a multipage document. It's for December 31st, 2012. Take a look at it for a moment.

A. (Witness complying.)

Q. Looking at this document, does this appear to be a document that was prepared in advance of

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December 31st, 2012?

A. Yes.

Q. And it hasn't been altered to reflect whether or not specific employees of the Sheriff came in or didn't come in on that date?

A. I wouldn't know by looking at it.

Q. Well, take a look at the back. It's a multipage document.

A. If they redid it, I wouldn't know.

Q. Does it reflect whether or not there were any absences on December 31st, 2012?

A. Yes.

Q. And where does it reflect that?

A. There's no page number on it. 005388.

Q. Does it reflect whether or not anybody called in with a medical absence on December 31st, 2012?

A. No.

Q. Would it be unusual within a division for no one to call in sick on a particular day?

A. No.

Q. So there are days when nobody calls in sick?

A. Yes.

Q. So this reflects that on December 31st, 2012 in Division 1, there wasn't anybody that called in sick?

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A. According to this.

Q. So you don't know whether or not this is the final daily roster or not?

A. No, I do not know.

Q. Is there a procedure on a daily basis where the daily roster and the payroll are put together by an officer or supervisor?

A. It's prepared by them and reviewed by the shift commander.

Q. So what paperwork in each division is prepared in December of 2012 to reflect the attendance?

A. This is the paperwork.

Q. So you have Exhibit 5, correct?

A. Yes.

Q. Any other documents?

A. It depends on the shift commander. I did like a rough draft on the side where I would get the list of the medicals and I would have a rough draft. And then I would prepare this off of my draft, and then the draft would get destroyed.

Q. Do officers or supervisors in the division use this preprinted daily roster sheet to reflect changes if an officer comes in or calls in sick or not or for instance, an officer is reassigned from one post to

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another post?

A. Yes.

Q. Does looking at the first two pages, does it reflect that there are any changes on this form that reflects that maybe an officer's post was changed or tier was changed?

A. No.

Q. But what becomes -- So, generally, is it the superintendent or the commander that turns in the final daily roster at the end of the shift or at the end of the day?

A. Yes.

Q. Who would turn in that document?

A. It would be forwarded to external operations.

Q. And would it be forwarded by somebody in the security office, or would it be forwarded by the superintendent in the division to the external operations?

A. The shift commander would sign off on it, review it and then have somebody run it over to external operations.

Q. So for each shift, the commander on duty has to sign off on it, correct?

A. Yes.

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Q. And where on the form would they sign off?

A. There's a signature page, I believe, is missing out of this. They sign in the place of the superintendent.

THE WITNESS: Can I take a break?

MR. MORRISSEY: Sure. Take whatever break you want.

(A short break was had.)

BY MR. MORRISSEY:

Q. Looking at Exhibit 5, does it appear that a commander or a superintendent signed off on this document?

A. No.

Q. Under your general order, Exhibit No. 4, are daily rosters maintained in the divisional file for at least five calendar years?

A. Yes.

Q. So the actual daily roster for December 31st, 2012 should be in Division 1's records?

A. Well, division 1 is closed, so I believe that's all sent to the warehouse.

Q. But there should be a document which reflects the actual attendance on December 31st, 2012 in Division 1?

A. Yes.

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MR. MORRISSEY: Again, we're going to make a demand for that document.

BY MR. MORRISSEY:

Q. Is there also a document in each division called a daily attendance sheet?

A. Yes.

Q. What information is on the daily attendance sheet?

A. The amount of officers assigned, the amount of officers worked, the benefit time.

Q. Did they have attendance -- daily attendance sheets in December of 2012?

A. Yes.

Q. Who in Division 1 would have been responsible for preparing the daily attendance sheets?

A. The shift commander.

Q. So each shift has a commander, correct --

A. Yes.

Q. -- in Division 1? And the shift commander, in December of 2012, was responsible for preparing a daily attendance sheet?

A. Yes.

Q. And where are those daily attendance sheets -- Where were the daily attendance sheets maintained in

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Division 1?

A. Superintendent's office.

Q. For what period of time were the daily attendance sheets maintained in Division 1?

A. I couldn't say for sure.

Q. Were they maintained in the same place in the superintendent's office as the daily roster sheets?

A. I would guess.

MR. MORRISSEY: We will make a demand, again, for the daily attendance sheet for December of 2012 in Division 1.

BY MR. MORRISSEY:

Q. What different information is maintained on the daily attendance sheet in Division 1 from the roster sheet?

A. I would have to look at it. I don't know off the top of my head.

Q. On the daily attendance sheet, would they reflect overtime?

A. Yes.

Q. You mentioned that the premium lunch pay was discussed periodically at the superintendent's meetings with the directors?

A. Yes.

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Q. Was there any procedure where the directors at the jail would monitor the premium lunch pay that was authorized by each superintendent?

A. What do you mean by "procedure"?

Q. Well, I mean, was there any accountability for a superintendent if they authorized premium lunch pay?

MR. NOWINSKI: Object to foundation.

BY THE WITNESS:

A. It's on the paperwork.

Q. I know. But my question is, you mentioned that there was a concern in the year 2012 about overtime at the jail?

A. There's a concern about overtime all the time.

Q. How did the Sheriff and the executive directors try to cut back on overtime at the jail in December of 2012?

A. I wasn't involved a lot with the overtime discussions at all because it didn't fall under me. But we did have discussions about trying to figure out how to get officers to come to work, you know, bringing up morale and there were certain posts that we talked about that could be closed.

Q. In particular, were there discussions in regards to this premium lunch pay during the

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superintendent's meetings?

(A short interruption.)

BY MR. MORRISSEY:

Q. You need the question read back?

A. Yes, please.

(Record read as requested.)

BY THE WITNESS:

A. I'm sure there was, but nothing I can recall specifically time and day.

Q. Going back to the exhibit about the vertical -- multilevel vertical relief program, Exhibit No. 2, you mentioned you read that, correct?

A. Yes.

Q. And you acknowledged that Dembosz and Imhof were supervisors in Division 1, correct?

A. Yes.

Q. And division -- This proposal reflected that there could be substantial cost savings to the Sheriff's office if they implemented this multilevel vertical relief program with the intent of eliminating premium lunch pay, correct?

A. Yes.

Q. To your knowledge, was there any attempt made by the management at the jail to eliminate premium lunch

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1 pay?

2 MR. NOWINSKI: Object to foundation.

3 BY THE WITNESS:

4 **A. We always try to eliminate lunch pay if we can.**

5 Q. What steps do you recall being taken by the
6 Sheriff's office to eliminate premium lunch pay in, let's
7 say, the year 2012?

8 **A. I would say possibly closing some posts,
9 managing your movement a little better. There's a lot of
10 ways you can try to, you know, take care of lunch
11 premiums.**

12 Q. Could you assign -- Could you have, in a tower,
13 in December of 2012, for instance, have a procedure where
14 one officer could relieve three other tiers during a
15 one-hour period?

16 MR. NOWINSKI: Object to foundation and speculation,
17 incomplete hypothetical.

18 BY MR. MORRISSEY:

19 Q. Do you understand the question?

20 **A. It doesn't make sense.**

21 Q. Well, let me rephrase it for you. You've read
22 this proposal by your commanders and lieutenants,
23 correct?

24 **A. Yes.**

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1 Q. And they proposed a setup where, let's say, the
2 G and H tower, that maybe the officer working in H1 could
3 relieve, vertically, for lunch, the officers that were in
4 H2, H3 and H4, correct, during a one-hour period?

5 **A. I don't think it specifically states they
6 relieve three officers.**

7 Q. Well, if we look at the proposal -- and I think
8 it starts on Bates-stamped 004875, it states, is it
9 correct, in December of 2015, there were four approved
10 meal periods for staff on the 1500 to 2300 shifts?

11 **A. Yes.**

12 Q. And then if we look at -- go down a step, it
13 says, at the start of the first meal period, the officers
14 assigned to the 2nd, 3rd and 4th floors of A, C, E and G
15 block will be assigned mealtimes. If they're assigned
16 mealtimes, that means to you that they're free to go for
17 that hour period?

18 **A. Yes.**

19 Q. They could leave their posts, correct?

20 **A. Yes.**

21 Q. And then it goes on, the first floor officer
22 assigned to the tiers on these blocks will continuously
23 rotate upwards throughout the block providing backup to
24 the officer across the hall on the B, D, E -- I'm

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1 sorry -- B, D, F and H towers and/or detainees

2 observation via the catwalk every seven minutes so that
3 30-minute detainee observation can be maintained with
4 Illinois Jail Standards, comma, American Correctional
5 Association (ACA) Consent Decree mandates. Do you see
6 that?

7 **A. Yes.**

8 Q. Does that mean that during that one-hour
9 period, one officer would be assigned to, in essence,
10 observe four tiers at one time?

11 **A. No.**

12 Q. What does it mean?

13 **A. That one officer would conduct -- would back up
14 the other officer while they conduct a visual check
15 within the 30-minute timeframe.**

16 Q. So the officer, for instance, on the H block,
17 if he or she was assigned to H1, would go up to the
18 second floor, correct, during that hour break, correct?

19 **A. Yes.**

20 Q. The H2 officer would be gone for lunch,
21 correct?

22 **A. Yes.**

23 Q. So that block, that cell or tier, H2, would be
24 absent during that one-hour period, correct?

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1 **A. Other than when they're making the half-hour
2 check.**

3 Q. And your understanding would be is that the
4 officer at H1 would go up to the second floor of G and H
5 tower, correct?

6 **A. Yes.**

7 Q. And then he would go into the G2 tier, correct?

8 **A. Yes.**

9 Q. And at that time there would be an officer in
10 G2, correct?

11 **A. Yes.**

12 Q. Because the H2 -- vertically, all the H tiers
13 in that tower were empty except for the one officer,
14 correct?

15 **A. Okay.**

16 Q. And during a -- every 15 minutes there has to
17 be a security check?

18 **A. 30 minutes.**

19 Q. Every 30 minutes. And there's a catwalk in
20 each of the tiers in Division 1, correct?

21 **A. Yes.**

22 Q. And does there always have to be an officer
23 inside the bubble or inside the officer's station to
24 provide backup when an officer walks into the catwalk

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area?

A. Yes.

Q. So in order to do the 30-minute security check, there has to be two officers in a tier?

A. Yes.

Q. One walking around the catwalk and the other person out at the desk area?

A. Yes.

Q. While that's going on, the H1 or H2 tier is empty, correct, as far as having a correctional officer physically in the tier, correct?

A. Yes.

Q. And, furthermore, the H1 tier wouldn't have an officer, correct?

A. Yes.

Q. Because the H1 officer is up providing backup to the G2 tier officer doing the 30-minute check, correct?

A. Yes.

Q. And at the same time, there wouldn't be an officer in H3 during the time the H1 officer is providing the backup for the G2 officer that's doing the catwalk check, correct?

A. Yes.

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Q. And the H4 tier also would be empty during that one-hour period when the tier officer from H1 is providing backup to the G2 officer doing the 30-minute check, correct?

A. Yes.

Q. Does that process or practice provide any security risks to the inmates in H1, H2, H3 and H4?

MR. NOWINSKI: Object to form.

BY THE WITNESS:

A. No more than any other time.

Q. Why is that?

A. There's security risks all the time. Anything can happen at any time.

Q. So is there a need, in your opinion -- as a first assistant at the Cook County Jail, is there a need to have a tier officer inside the tier during the entire shift?

A. Inside the tier as to where?

Q. Well, either at the desk or at the catwalk. I'm saying inside, let's say, the H2 tier. Is there a need to have a tier officer inside the H2 tier during the 3:00 to 11:00 shift in December of 2012?

A. There's a need to have an officer assigned to every tier. Yes.

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Q. So my question is, physically, does an officer need to be inside the tier -- inside the H2 tier, for instance, in December of 2012 to provide security for the inmates?

A. My opinion? No.

Q. What do you base that opinion on?

A. I've been in Division 1, and I know when I was an officer, I could probably view them tiers two tiers at one time and not being any different than if there was two officers there. You have full visual sight and sounds of both sides.

Q. Have you ever worked as a tier officer in Division 1?

A. No.

Q. Would it be permissible in December of 2012 for a superintendent to provide -- Strike that. Strike that question.

If a superintendent in December of 2012 decided to implement this procedure, which is laid out in Plaintiff's Exhibit 2, to cut down on lunch pay and provide for a vertical relief program during the lunch period, could that superintendent be disciplined by the Sheriff or by the executive staff at the jail?

MR. NOWINSKI: Object as to speculation, incomplete

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hypothetical.

BY MR. MORRISSEY:

Q. Do you understand?

A. Be disciplined for what, for coming up with this?

Q. Well, assuming that the superintendent in December of 2012 made his decision that he or she was going to implement this vertical relief program during the lunch period which is explained in Exhibit No. 2.

A. The superintendent wouldn't --

Q. Just let me finish my question.

A. Okay.

Q. Could the superintendent be disciplined?

MR. NOWINSKI: Object to speculation, incomplete hypothetical.

BY THE WITNESS:

A. He wouldn't implement it without the approval of the director.

Q. By "the director," you mean Gary Hickerson or John Murphy in 2012?

A. Gary Hickerson, I would say -- John Murphy didn't take over until December 1st, so it probably would have been John Murphy.

Q. So if a vertical relief program was implemented

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1 by the superintendent of Division 1 in December of 2012,
2 it would have been with the approval of the executive
3 director at that time?

4 MR. NOWINSKI: Object to speculation.

5 You can answer.

6 BY THE WITNESS:

7 **A. It could have been approved by an assistant**
8 **director of the division too.**

9 Q. And an assistant director would be at your
10 level or above?

11 **A. It was below me at that time.**

12 Q. Pardon?

13 **A. It was below me at that time.**

14 Q. Because you were a first assistant at that
15 time?

16 **A. Yes.**

17 Q. So it could have been by an assistant executive
18 director. And who were the assistant executive directors
19 in December of 2012?

20 **A. Mike Holmes, Mike Miller. I could speculate**
21 **because I don't know what date they were having, but I**
22 **believe Debbie Becker was an assistant director.**

23 Q. Is she still with the jail?

24 **A. Yes.**

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1 Q. What's her position?

2 **A. She is still an assistant executive director.**

3 Q. Is Mike Miller still an assistant?

4 **A. Yes.**

5 Q. He's not a first assistant?

6 **A. No.**

7 Q. What are incident reports at the jail?

8 **A. It's a report generated after an incident takes**
9 **place.**

10 Q. Who receives -- In December of 2012, how would
11 an officer generate an incident report?

12 **A. Go on the computer and report an incident after**
13 **it happened.**

14 Q. By the "computer," you're talking about the
15 jail management computer?

16 **A. Yes.**

17 Q. What was the computer system at the time in
18 December of 2012?

19 **A. I believe it was IMac.**

20 Q. If a tier officer generated an incident report
21 in December of 2012, did that require somebody within the
22 supervisory rank to respond to it?

23 **A. Yes.**

24 Q. And who normally would respond in Division 1 to

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1 an incident report?

2 MR. NOWINSKI: Objection, foundation, speculation.

3 BY THE WITNESS:

4 **A. The shift commander.**

5 Q. After the shift commander responded to an
6 incident report, would those incident reports go to the
7 superintendent?

8 **A. Yes.**

9 Q. How would the superintendent receive copies of
10 the incident reports?

11 **A. Usually they put it in a folder. And depending**
12 **on the division, you either slide it under the supe's**
13 **door or he might have an inbox to put them in.**

14 Q. Under what circumstances would the assistant
15 directors receive incident reports?

16 **A. We would get an oral notification via the**
17 **phone.**

18 Q. So each time there was an incident report,
19 there would be an oral notification to either an
20 assistant director or the executive director of the jail?

21 **A. Depending on the incident and the director,**
22 **specifically.**

23 Q. Would the assistant director document receipt
24 of an incident report?

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1 **A. No.**

2 Q. Did the Sheriff, Tom Dart, receive notification
3 of incident reports?

4 MR. NOWINSKI: Object to foundation, speculation.

5 BY THE WITNESS:

6 **A. I wouldn't know.**

7 Q. Just to summarize it. Each time there was an
8 incident report, the shift commander has to respond to
9 it, correct?

10 **A. Yes.**

11 Q. The superintendent would receive a copy of --
12 a physical copy of the incident report in Division 1?

13 **A. Yes.**

14 Q. And generally an assistant director would be
15 notified?

16 **A. Yes. Depending on the seriousness of the**
17 **incident.**

18 Q. Who makes the decision whether or not the
19 assistant director is notified of an incident report?

20 **A. It depends on the time of day.**

21 Q. Have you reviewed incident reports in regards
22 to this vertical cross-watching in December of 2012?

23 **A. I've reviewed them, but I don't know if it was**
24 **in December of 2012. I've seen them on the IMac.**

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Q. When was the last time you reviewed those incident reports?

A. From when?

Q. In December of 2012 they were generated by tier officers alerting the jail to this vertical cross-watching practice.

A. Yesterday.

Q. You may or may not have seen those at the time the reports were generated in December of 2012?

A. I may have.

Q. Do you recall doing anything in December of 2012 when tier officers complained about the practice of vertical tier [sic] watching during the lunch period?

A. I wasn't -- At that time I wasn't over in Division 1. So I remember discussions at the superintendent's meeting about it. That's about all I know.

Q. You're aware that Officer Rottar -- Strike that.

Did you ever hear of the term Town Hall meetings?

A. Yes.

Q. What is a Town Hall meeting?

A. It's a meeting with staff to get everybody

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together to go over concerns or issues within the division.

Q. Isn't it true that you attended a Town Hall meeting after December 31st, 2012 in Division 1 in regards to the vertical cross-watching practice?

A. I have attended Town Hall meetings in Division 1, but I don't recall one specifically about the vertical relief program.

Q. Do you recall being with Gary Hickerson in January of 2013 at a Town Hall meeting with Peter -- you know who Peter Kramer is?

A. Yes.

Q. Do you recall being at a Town Hall meeting with Peter Kramer in 2013?

A. No.

Q. Do you recall being in a Town Hall meeting with Gary Hickerson in 2013?

A. Gary Hickerson wasn't an employee at the Department in 2013.

Q. Do you recall being in a Town Hall meeting with other members of the executive staff in regards to the vertical cross-watching?

A. I may have been. I've been in so many, I couldn't tell you specifically if I was at that specific

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one.

Q. Do you recall whether or not vertical cross-watching came to a halt after that Town Hall meeting in Division 1?

A. I don't recall.

Q. Is there anything that would refresh your memory?

A. I've been to so many Town Hall meetings, and I probably wouldn't remember.

Q. Did you ever discuss with superintendents, the practice of vertical cross-watching in Division 1?

A. No.

Q. Do you know in Division 1 a person by the name of Brady? He's a supervisor.

A. Brady?

Q. Brady.

A. No.

Q. A lieutenant by the name of Brady?

A. No.

Q. Showing you what has been marked as Plaintiff's Exhibit No. 3, it's a two-page document. I'll ask you to take a look at it. Actually, look at the second page of it.

A. (Witness complying.)

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Q. Have you seen this report before?

A. No.

Q. Take a few moments and read it.

A. (Witness complying.) Okay.

Q. Have you had a chance to read it?

A. Yes.

Q. Was there a pamphlet in December of 2012 issued by the jail for multilevel vertical relief program?

A. I don't recall.

Q. Is that -- Is the practice or policy that's laid out in the second page of Exhibit 3 similar to what your commander or -- Commander Dembosz and Lieutenant Imhof back in 2010 and 2011 proposed?

A. Yes.

Q. Does it appear to you that the pamphlet was described in Exhibit No. 2?

MR. NOWINSKI: Object to speculation.

BY THE WITNESS:

A. Yes.

Q. Did you ever discuss with Superintendent Martinez why he implemented this multilevel vertical relief program in December of 2012?

A. No.

Q. Do you know if he did implement this multilevel

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vertical relief program in December of 2012?

A. No.

Q. Do you know whether or not, in December of 2012, if Superintendent Martinez implemented this multilevel vertical relief program, whether or not it was against the policy and practice of the Cook County Jail?

A. No.

Q. I'm going to show you what is marked as Exhibit No. 7 -- Plaintiff's Exhibit No. 7. It looks like two news releases. One release looks like 2016 on Father's Day and after Game 7 of the NBA Championship game. And the other one looks like it was released also on a holiday in 2016. I'd ask you to take a look at these news releases.

A. (Witness complying.)

Q. Do you know a Cara Smith?

A. Yes.

Q. Who is Cara Smith?

A. She works for the Sheriff. She's, I believe, like a bureau chief also.

Q. Was she once the executive director or acting executive director?

A. Yes.

Q. And when was that?

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A. I want to say 2014 into 2015.

Q. Did you work for her?

A. Yes.

Q. Directly?

A. Yes.

Q. So she would know about the propensity for Sheriff's employees to call in sick during certain holiday days, correct?

MR. NOWINSKI: Object to form, speculation.

BY THE WITNESS:

A. I would guess.

Q. And they have a statement here on Plaintiff's Exhibit No. 7 about during one shift, 21.3 percent of the workers called in sick on the morning shift, and then on the afternoon shift, 167 called in sick, correct?

A. Yes.

Q. Now, it does happen, you acknowledge, at the jail, on certain holidays, this is a common occurrence, correct?

MR. NOWINSKI: Object to form.

BY THE WITNESS:

A. Yes.

Q. What procedure, given the fact that you as a first assistant and the other directors at the jail know

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this is going to occur on certain holiday days, what do you do to provide appropriate staffing on Christmas Day or New Year's Eve Day?

A. We don't know that it's going to happen. We assume that's it's going to happen.

Q. So with the assumption that these government employees would call in sick on a holiday, do you then overstaff on New Year's Day or New Year's Eve to insure that there are adequate guards to come into work on those days?

A. What do you mean by "overstaff"?

Q. Well, if there's -- Cara Smith is mentioning that the morning shift, I guess, after the NBA Game 7, 150 of the 702 employees called in sick. That's unusual, correct?

A. Yes.

Q. That's not common to have 21 percent of your employees not show up on a day, correct?

A. Yes.

Q. Given that Christmas Day or New Year's Eve also could be considered peak days when employees tend to call in sick, does the Sheriff then schedule more people to work on those days?

MR. NOWINSKI: Object to foundation.

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BY THE WITNESS:

A. We don't schedule more people, but we will ask people if they're willing to come in work because we don't know how many we'll need. So we'll hold people over from the previous shift to work.

Q. So you'll have overtime, correct?

A. Yes.

Q. Do you lock down the entire building on Christmas Day or New Year's Eve given that you might have a staff shortage?

MR. NOWINSKI: Objection, incomplete hypothetical.

BY THE WITNESS:

A. We have.

Q. Do you know if, on December 31st, 2012 in Division 1, whether or not they locked down the jail because they weren't enough employees on the 3:00 to 11:00 shift?

A. I don't recall that day.

Q. Is there any record that would reflect that the jail was locked down on those days?

A. Yeah. There should be a record of it.

Q. Would tier records -- tier logs reflect if the inmates were locked down on the 3:00 to 11:00 shift on December 31st, 2012?

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A. Yes.

Q. Did you look at the tier record for the H2 tier on December 31st, 2012 on the 3:00 to 11:00 shift?

A. Did I look at it?

Q. Yeah. In preparation for this dep?

A. No.

Q. If 21 percent of the officers failed to show up on the 3:00 to 11:00 shift on December 31st, 2012 in Division 1, how would the Sheriff adequately staff the tiers?

A. We would hold overtime from the previous shift.

Q. If the workers on the previous shift didn't want to work, what would they do?

A. We would mandate them to work.

Q. Going back to the roster sheet that was prepared in advance of December 31st, 2012, if we look at the roster sheet for the 3:00 to 11:00 shift, why isn't there a person assigned to the 3:00 to 11:00 shift on G2 on December 31st, 2012?

A. On which tier?

Q. On the G2 tier.

A. Probably because the officers put in for benefit time.

Q. So the daily roster sheet reflects that there

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was nobody working at that time, correct?

MR. NOWINSKI: Objection, mischaracterization.

BY MR. MORRISSEY:

Q. Let me rephrase that. This document, the daily roster Division 1 sheet that was tendered by the Sheriff, does not reflect that there was an officer assigned to G2 on the 3:00 to 11:00 shift?

A. It doesn't say who was assigned to G2, but I'm sure somebody was assigned there.

Q. But looking at this, you can't tell me that there was a person that was assigned to it?

A. Correct.

Q. And the same is true for December 31st, 2012, as far as a person assigned to G3? On the 3:00 to 11:00 shift, there was nobody assigned to G3?

A. Correct.

Q. So we would need to look at the attendance sheet to determine if there was an officer actually assigned to G2 and G3 on the 3:00 to 11:00 shift?

A. Yes.

Q. Tier records -- living unit records, are they maintained in the division for five years?

A. Yes.

Q. So in Division 1, there should be living unit

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records for December of 2012 maintained by the Sheriff?

A. Yes.

MR. MORRISSEY: Again, we're going to make a demand for all the tier sheets -- or the living unit sheets for the period in December of 2012, which have not been produced. Some have been produced, but most have not. So, again, we're going to make a demand for those documents.

BY MR. MORRISSEY:

Q. Are you familiar with Cermak -- Division 8, Cermak, in the year 2013 to the present?

MR. NOWINSKI: Object to form.

BY THE WITNESS:

A. Yes.

Q. Let me rephrase the question. As a first assistant director of the jail, you're familiar with the third floor of Cermak, correct?

A. Yes.

Q. And are you familiar with the fact that in -- Go back.

You're familiar with the consent decree, correct, which came out in May of 2012? I'm sorry.

You're familiar with the consent decree that came out in May of 2010, correct?

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MS. CARROLL: Objection, form.

BY THE WITNESS:

A. Yes.

Q. And the consent decree in May of 2010, in that consent decree, the Sheriff agreed to place inmates with disabilities in appropriate housing at the jail, correct?

MR. NOWINSKI: Object to speculation.

You can answer, if you know.

BY THE WITNESS:

A. Yes.

Q. And you're familiar also, as a first assistant at the jail, that the Justice Department issued a letter or report in May of 2012 bringing to the attention of the Sheriff that disabled people in wheelchairs were not being placed in cells which accommodated their disability?

A. I've heard of that, but I'm not real familiar with that order.

Q. Are you familiar with the fact that subsequently to that letter coming out by the Justice Department in May of 2012, that the Sheriff entered into an agreement with the Department of Justice called the implementation plan?

A. I'm not familiar with that one.

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Q. During your -- I'll show you what's been marked as Plaintiff's Exhibit No. 11. It's a document that was tendered by the Sheriff through a Freedom of Information Act request. It's called Implementation Plan: Accessibility Provisions of Agreed Order. It's a multiple-page document with the signature of Cara Smith as the director of the Cook County Department of Corrections on the signature page. Take a look at it.

A. (Witness complying).

Q. You're aware that the plaintiff in this case is confined to a wheelchair?

A. Yes.

Q. And at the Cook County Jail, the medical staff at Cermak provides an alert to Sheriff's employees when an inmate is disabled?

MS. CARROLL: Objection to the phrasing.

BY THE WITNESS:

A. Yes.

Q. And if a doctor or a medical provider at Cermak provides information to the Sheriff through IMac or CCom come or whatever, that a person is assigned to a wheelchair, the Sheriff's officers receive that information, correct?

A. Not specifically the officers.

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Q. Well, it's in the IMac or CCom jail management data system that a prisoner is provided his -- has a prescription for a wheelchair, correct?

A. Yes.

Q. In 2013, to your knowledge, what procedures were in place for a wheelchair-assisted prisoner like Mr. Bowers to be placed in a cell in Cermak that had grab bars and an accessible toilet?

A. It wouldn't have to be in Cermak. We have ADA cells throughout the whole compound.

Q. My question pertains to, let's say 3 West in 2013. What provisions -- What did the Sheriff's offices do in 2013 to insure that a wheelchair-assisted prisoner like Mr. Bowers was placed in an accessible cell on the third floor of Cermak?

MR. NOWINSKI: Object to foundation, speculation.

You can answer, if you can.

BY THE WITNESS:

A. Cermak would make the request, and to my knowledge, we never refused an inmate housing there.

Q. My question is, what steps did the Sheriff's office -- and by the Sheriff's office, I mean the Department of Corrections -- take if a gentleman like Mr. Bowers, who's the plaintiff in this case, was

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prescribed a wheelchair by Cermak? What steps did the Sheriff take to insure that Mr. Bowers was placed in a cell on the third floor of Cermak which had an accessible toilet and sink?

MR. NOWINSKI: Same objection.

BY THE WITNESS:

A. From my dealings with it personally, if Cermak said he had to be there, he was there. We didn't take steps. Cermak medical says if he has to go to 3 West in the cell, he's going to go there.

Q. But my question is, in 2013 in 3 West, for instance, were all the living units accessible for a wheelchair-assisted prisoner?

A. I'm not familiar with all the cells, but I do know they have them.

Q. In 2013, they had accessible cells in 3 West?

A. Yes.

Q. Are you aware of the requirements under the ADA for a toilet and a sink to be accessible?

A. Yes.

Q. You're aware that a toilet requires grab bars, for instance?

A. Yes.

Q. And that the toilet has to be a certain

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elevation? The seat level has to be between 17 and 19 inches high?

A. I know it has to be a certain height. I don't know the specific heights.

Q. So what steps were taken by the Sheriff after Cermak prescribed a wheelchair for Mr. Bowers, for instance, to insure that he was placed in a room in 3 West or some other room on the third floor of Cermak that had an ADA accessible toilet and sink?

MR. NOWINSKI: Same objection, and asked and answered.

BY THE WITNESS:

A. When I've dealt with Cermak with these issues, they were put there. Cermak requested he has to be in this tier in this specific cell, and he's there. There's no other step.

Q. So if Mr. Bowers, in 2013 and 2014, was not placed in a room that had an accessible toilet and sink on the third floor of Cermak, it wasn't the Sheriff's fault; it was Cermak's?

MR. NOWINSKI: Misstates his testimony.

Go ahead.

BY MR. MORRISSEY:

Q. Do you understand it?

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A. In my dealings, yeah. Cermak didn't tell us he needed to be there.

Q. So unless -- So if the facts came out that Mr. Bowers was not in an accessible room on the third floor of Cermak during the year 2013 and up until August of 2014, that would have been because Cermak either required him to be placed in a different room or didn't inform the Sheriff that he needed to be in an accessible room?

MR. NOWINSKI: Object to incomplete hypothetical.
BY THE WITNESS:

A. It could be. All I can say is my dealings. I didn't have a lot of deals with Cermak. My main responsibility in the jail throughout my career has been security, investigations.

Q. When you were at these Dart meetings -- Thomas Dart meetings with Burke and other high ranking members of the Sheriff's staff, in 2013 and 2014, was there ever any discussion in regards to the Justice's -- Department of Justice's letter of May of 2012 saying that the Sheriff wasn't providing accessibility for disabled people?

A. Not that I recall.

Q. Do you know whether or not there were -- other

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than the third floor of Cermak, whether wheelchair detainees were housed in any other place in the Department of Corrections in 2013 and 2014?

A. They were housed other places.

Q. Division 2 --

A. Yes.

Q. -- would have been one? Any other places other than the M and N tiers in Division 2?

A. None that I can recall.

Q. In the year 2013, did the jail have sufficient living units that were accessible for wheelchair-bound detainees to house people like Mr. Bowers who was prescribed a wheelchair?

MR. NOWINSKI: Objection, speculation, form, calls for a legal conclusion.

BY THE WITNESS:

A. To my knowledge, yes.

Q. Do you know what a count sheet is?

A. A what?

Q. Daily count sheet.

A. Oh. Yes.

Q. What is a daily count sheet?

A. It's the counts that were made at shift change and the three specific counts of the day.

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DAVID MORECI
January 10, 2017

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Q. In 2013 and 2014, were daily count sheets computer generated?

A. I believe so.

Q. And were tier officers given daily count sheets?

A. No.

Q. Were they asked to sign off on daily count sheets --

A. No.

Q. -- tier officers?

A. No.

Q. Who received the daily count sheets?

A. Security office.

Q. Where were the daily -- Would the daily count sheets, in 2013 and 2014, reflect the names of inmates housed in a tier?

A. No.

Q. No? Why not?

A. It's just specifically the count.

Q. Perhaps we're not discussing the same document. I understand that at the start of each shift there's a count, correct?

A. Yes.

Q. And at the end of the shift, there's a count,

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correct?

A. Yes.

Q. My question is more focused. In regards to the names of the inmates inside a particular tier, is there a document prepared by the Sheriff's office that lists the names of the inmates in a particular tier?

A. Yes.

Q. What is that document called?

A. Either -- Back then I believe it was a tier sheet or housing sheet. And on IMac I'm not sure what it was specifically called. Living unit sheet or something.

Q. So does the Sheriff maintain such a record today?

A. Yes.

Q. What is it called today?

A. It's a -- What's it's called? The cell census report.

Q. Does a cell census report list all the names of the prisoners inside a particular tier?

A. Yes.

Q. And as long as you have been at the Cook County Department of Corrections, there has always been a document that specifies the names of the prisoners assigned to a particular tier on a day?

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MR. NOWINSKI: Object to foundation.

BY THE WITNESS:

A. Yes.

Q. Does the tier -- When did that sheet or report become computer generated?

A. When we went to CCom.

Q. Prior to that, when you had the other general management system, was there a physical sheet?

A. IMac printed it out and the officers signed it. And then before that, we did a manual sheet where the officer actually wrote every name in.

Q. So on the third floor of Cermak in 2013, there should be a daily list of the names of the inmates in each of the living units, correct?

A. There should be, but I don't have a lot of dealings with Cermak, so I can't say for sure.

Q. And the officer back in 2013 was using IMac?

A. Pardon me?

Q. In 2013 you were using the IMac system?

A. Yeah. I believe so.

Q. So the tier officer on the third floor of Cermak, say they were assigned to 3 West, would have a list of all the inmates in 3 West, correct?

A. Like I said, to my knowledge in Cermak, at

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times I've gone up there, there's a board behind the officer with all the IDs and it shows what cell they're in.

Q. And if there are additional inmates inside a living unit, they would be handwritten on the IMac sheet?

A. I'm not familiar with Cermak, how they did it then.

Q. At the end of a shift, would those IMac sheets be collected?

A. They should be.

Q. And where would they be deposited?

A. In the superintendent's office.

Q. And what would -- Where would they be maintained after the sheets were sent to the superintendent's office?

A. I believe in a file in the superintendent's office.

Q. And would they be maintained also for a five-year period?

MR. NOWINSKI: Objection, speculation.

MR. MORRISSEY: I'm asking.

BY THE WITNESS:

A. I'm not sure what the requirements are on the tier sheets. I think those were more along the lines of

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two to three years.

Q. Is there any policy or practice at the Cook County Jail in regards to what you now call the cell census reports?

A. I'm not sure.

Q. Would those daily living sheets or cell census reports reflect the number of prisoners that are in a certain cell -- tier?

A. Yes.

Q. I'm showing you what's been marked as Plaintiff's Exhibit No. 12. It's previously been Bates-stamped as 16 through 19. Do you recognize the first page of Exhibit No. 12 as the officer's living unit log?

A. Yes.

Q. And this is for the H2 tier on 12/31/2012 on the 3:00 to 11:00 shift?

A. Yes.

Q. Does it reflect that during that entire 3:00 to 11:00 shift, that the entire tier was locked down for the entire period?

A. No.

Q. If the G and H tiers were short of staff on the 3:00 to 11:00 shift on December 31st, 2012, would it have

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been appropriate to lock down the entire cellblock because of staff shortages?

MR. NOWINSKI: Objection, incomplete hypothetical, speculation.

BY THE WITNESS:

A. That doesn't make sense. Just Tier H2 would be short, not the rest of the division.

Q. If the entire division, Division 1, on New Year's Eve between 3:00 and 11:00 that night was short of staff, one of the ways of managing the shortage would have been to lock down the entire building?

A. You could if you felt there was a security concern.

Q. What other steps could have been taken on the 3:00 to 11:00 shift on December 31st, 2012 if there was a severe staff shortage?

A. Cut down to limited movement, emergency movement only. Cut visiting down. Possibly stop visiting. No recreation. No barber shop. Stuff like that.

Q. Now, on the -- If the entire building was locked down on the 3:00 to 11:00 shift, would the watch commander's log reflect that?

A. It should.

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Q. Looking at Bates-stamp 16, is that the watch commander log for that time?

A. 16. I don't see where --

Q. On the third page of the document.

A. I don't see a 16 on there. Yeah. That's a watch commander's log.

Q. Does it reflect if there was a staff shortage? Let me ask you a preliminary question. If there was a staff shortage in Division 1 on that shift, should it have been noted in the watch commander's log?

A. Yeah. On the back page.

Q. Do we have a back page?

A. Yes. The next page. That should be documented in the unusual incidents or comments section.

Q. I don't know if I asked you. Do you know this Lieutenant Dahmen?

A. Yes.

Q. Is Lieutenant Dahmen still living in Chicago?

A. I don't know?

Q. Is he retired?

A. Yes.

Q. Do you know Commander Anderson?

A. Yes.

Q. Is he still with the Sheriff?

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A. She.

Q. She. Is she still with the Sheriff?

A. Yes.

Q. Does this reflect the second page of the watch commander's log that there were no tiers on lockdown?

A. Yes.

Q. Does the watch commander's log reflect whether or not the division was fully staffed?

A. No.

Q. Does it reflect anything about the staffing?

A. No.

Q. It does reflect that there was a prisoner that was taken to Cermak for medical, correct?

A. Yes.

Q. If a prisoner like Mr. Bowers was injured on the 3:00 to 11:00 shift, what reports would have been prepared in the normal course of business by the Sheriff?

A. Incident report, disciplinary report, if that -- they felt inmates need to be disciplined.

Q. I haven't asked you this, but when did Division 1 -- when was Division 1 equipped with cameras?

A. I don't know the exact date, but I think we went live in '15, maybe.

Q. So at the time of this incident, there were no

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cameras in the tiers?

A. No.

Q. Were there any cameras in the building?

A. Not to my knowledge.

Q. The only cameras -- Did you see the film clip of Mr. Bowers after the incident?

A. No.

Q. Were sergeants and lieutenants equipped with the hand-held cameras back in December of 2012?

A. The divisions were issued cameras.

Q. So after the fact, the sergeants and lieutenants would have access to a camera to film an incident, correct?

A. Yes.

Q. Do you have any personal knowledge of what happened to Mr. Bowers?

A. No.

Q. Did you ever talk to Superintendent Martinez about whether or not he had permitted this vertical cross-watching during lunch hours?

A. No.

Q. Did you talk to any officers or supervisors in regards to the vertical cross-watching in Division 1 in December of 2012?

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A. No.

Q. Do you know if anybody was ever disciplined because in Division 1 they had a practice of doing this vertical cross-watching?

A. Not to my knowledge.

MR. MORRISSEY: I have no further questions at this time.

MS. CARROLL: I just have a couple.

CROSS-EXAMINATION

BY MS. CARROLL:

Q. I know you said you did not do a lot of dealings with Cermak.

Do you know what role an inmate security classification played in placement in different cells or different tiers on Cermak?

A. Can you rephrase that?

Q. Did security classification, like someone who's in maximum security, did that play a role in where he could be placed on the third floor of Cermak?

A. Yes.

Q. Do you remember which tiers were considered okay for someone at maximum security to be placed?

A. I'm not familiar with Cermak.

MS. CARROLL: Okay. That's it.

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MR. NOWINSKI: We'll reserve.
(Witness excused.)

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January 10, 2017

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IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION
UNITED STATES OF AMERICA,)
Plaintiff,)
vs.) No. 10 C 2946
COOK COUNTY, ILLINOIS; THOMAS)
DART, COOK COUNTY SHERIFF (in)
his official capacity); TODD H.)
STROGER, COOK COUNTY BOARD)
PRESIDENT (in his official)
capacity); COOK COUNTY BOARD OF)
COMMISSIONERS (in their official)
capacity);)
Defendants.)

I, DAVID MORECI, state that I have read the foregoing transcript of the testimony given by me at my deposition on the 10th day of January, 2017, and that said transcript constitutes a true and correct record of the testimony given by me at said the deposition except as I have so indicated on the errata sheets provided herein.

DAVID MORECI

No corrections (Please initial)
Number of errata sheets submitted (pgs.)
SUBSCRIBED AND SWORN to
before me this day
of , 2017.

NOTARY PUBLIC

TOOMEY REPORTING
312-853-0648

DAVID MORECI
January 10, 2017

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UNITED STATES OF AMERICA)
NORTHERN DISTRICT OF ILLINOIS)
EASTERN DIVISION) SS.
STATE OF ILLINOIS)
COUNTY OF COOK)

I, Shelley M. Bostetter, Certified Shorthand Reporter and Notary Public, do hereby certify that DAVID MORECI was first duly sworn by me to testify to the whole truth and that the above deposition was reported stenographically by me and reduced to typewriting under my personal direction.

I further certify that the said deposition was taken at the time and place specified and that the taking of said deposition commenced on the 10th day of January, A.D., 2017, at 11:10 o'clock a.m.

I further certify that I am not a relative or employee or attorney or counsel of any of the parties, nor a relative or employee of such attorney or counsel, or financially interested directly or indirectly in this action.

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DAVID MORECI
January 10, 2017

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In witness whereof, I have hereunto set my hand and affixed my seal of office at Chicago, Illinois, this 17th day of January, A.D., 2017.

SHELLEY M. BOSTETTER, CSR
TOOMEY REPORTING
(312) 853-0648

CSR No. 084-004410

TOOMEY REPORTING
312-853-0648

List of wheelchair accessible beds in CCDOC

1. RTU

a. 2nd Floor

- i. 2A – Cell #10
- ii. 2B – Beds X2 and X3
- iii. 2E – Cell #10
- iv. 2F – Beds X2 and X3
- v. 2G – Beds X5 and X6

b. 3rd Floor

- i. 3A – Cell #10
- ii. 3B – Beds X2 and X3
- iii. 3C – Beds X5 and X6
- iv. 3D – Beds X2 and X3
- v. 3E – Cell #10
- vi. 3F – Beds X2 and X3
- vii. 3G – Beds X5 and X6
- viii. 3H – Beds X2 and X3

c. 4th Floor

- i. 4A – Cells #6, #10
- ii. 4B – Beds X2 and X3
- iii. 4C – Beds X5 and X6
- iv. 4D – Beds X2 and X3
- v. 4E – Cells #6, #10
- vi. 4F – Beds X2 and X3
- vii. 4G – Beds X5 and X6
- viii. 4H – Beds X2 and X3

d. 5th Floor

- i. 5A – Cells #6, #10
- ii. 5B – Beds X2 and X3
- iii. 5C – Beds X5 and X6
- iv. 5D – Beds X2 and X3
- v. 5E – Cells #6, #10
- vi. 5F – Beds X2 and X3
- vii. 5G – Beds X5 and X6
- viii. 5H – Beds X2 and X3



COOK COUNTY SHERIFF'S OFFICE
(Oficina del Alguacil del Condado de Cook)

INMATE GRIEVANCE FORM
(Formulario de Queja del Preso)

☐ GRIEVANCE ☒ NON-GRIEVANCE (REQUEST)

CONTROL #

N/A

This section is to be completed by Program Services staff - ONLY! (Para ser llenado solo por el personal de Program Services!)

GRIEVANCE FORM PROCESSED AS:

- ☐ EMERGENCY GRIEVANCE
☐ GRIEVANCE
☒ NON-GRIEVANCE (REQUEST)

132

Program Services Supervisor Approving Non-Grievance (Request) Signature

REFERRED TO:

- ☐ CERMAK HEALTH SERVICES
☐ SUPERINTENDENT:
☒ OTHER: D.O.C. ADMIN

INMATE INFORMATION Información del Preso

PRINT INMATE LAST NAME (Apellido del Preso):

ROBERTS

PRINT - FIRST NAME (Primer Nombre):

JAMES

ID Number (Número de Identificación):

704888

DIVISION (División):

DIV 8 RTU3E

LIVING UNIT (Unidad):

DIV 8 RTU3E

DATE (Fecha):

11/15/2014

INMATE'S BRIEF SUMMARY OF THE COMPLAINT (Breve Resumen de los Hechos del Preso):

- * An inmate wishing to file a grievance is required to do so within 15 days of the event he/she is grieving.
- * Inmate Disciplinary Hearing Board decisions cannot be grieved or appealed through the use of an Inmate Grievance Request/Response/Appeal Form.
- * When a grievance issue is processed as a NON-GRIEVANCE (REQUEST), an inmate may re-submit the grievance issue after 15 days to obtain a "Control Number" if there has been no response to the request or the response is deemed unsatisfactory.

* Un preso que desea llenar una queja, se le requiere que lo haga dentro de los 15 días después del incidente.

* Las decisiones del Comité Disciplinario de los presos, no podrán ser cuestionadas o Apeladas a través del uso del Formulario de Quejas/Respuesta/Forma de Apelación.

* Cuando una Queja se procesa como una QUEJAS NO (PETICION), un preso podría re-someter una Queja después de los 15 días para recibir un "Número de Control", ya sea porque no hay una respuesta o porque la respuesta es insatisfactoria.

PLEASE INCLUDE:

(Por Favor, Incluya:

Date of Incident

Fecha Del Incidente

Time of Incident

Hora Del Incidente

Specific Location of Incident

Lugar Especifico Del Incidente)

I Am in Cell Number 6, I CAN NOT USE The Toilet Because There ARE NO RAILS OR BARS To pull up with. The OFFICER (I could NOT get his name WAS out of the Unit or Team) For Over AN Hour I Need To go To The Bathroom, I Ring the Butto For over AN Hour NO Respond To my Ring The Button. NO OFFICER I Bawl on The Door My Cellie WAS ANGRY I told him That, I had to go To The Bathroom, But I could NOT use the Toilet in Cell 6

ACTION THAT YOU ARE REQUESTING (acción que está solicitada):

Pull up BARS And RAILS Place in The Right place For people with Disabilities

NAME OF STAFF OR INMATE(S) HAVING INFORMATION REGARDING THIS COMPLAINT:
(Nombre del personal o presos que tengan información):

INMATE SIGNATURE (Firma del Preso):

James Roberts

SUPERINTENDENTS/DIRECTORS/DESIGNEES OF A DIVISION/UNIT MUST REVIEW AND SIGN ALL GRIEVANCES ALLEGING STAFF USE OF FORCE, STAFF MISCONDUCT, AND EMERGENCY GRIEVANCES. IF THE INMATE GRIEVANCE IS OF A SERIOUS NATURE, THE SUPERINTENDENT MUST INITIATE IMMEDIATE ACTION.

CRW/PLATOON COUNSELOR (Print):

Bell

SIGNATURE:

@

DATE CRW/PLATOON COUNSELOR RECEIVED:

11/17/14

SUPERINTENDENT/DIRECTOR, DESIGNEE (Print):

SIGNATURE:

DATE REVIEWED:





COOK COUNTY SHERIFF'S OFFICE
(Oficina del Aiguacil del Condado de Cook)

INMATE GRIEVANCE FORM
(Formulario de Queja del Preso)

☐ GRIEVANCE ☒ NON-GRIEVANCE (REQUEST)

CONTROL#

N/A

This section is to be completed by Program Services staff - ONLY! (Para ser llenado solo por el personal de Program Services!)

GRIEVANCE FORM PROCESSED AS:

- ☐ EMERGENCY GRIEVANCE
☐ GRIEVANCE
☒ NON-GRIEVANCE (REQUEST)

2032

REFERRED TO:

- ☐ CERMAK HEALTH SERVICES
☐ SUPERINTENDENT:
☒ OTHER: DOC ADMIN

Program Services Supervisor Approving Non-Grievance (Request) Signature

INMATE INFORMATION (Información del Preso)

PRINT - INMATE LAST NAME (Apellido del Preso):

ROBERTS

PRINT - FIRST NAME (Primer Nombre):

JAMES

ID Number (# de Identificación):

20140710003

DIVISION (División):

DIV 8 RTU 3E

LIVING UNIT (Unidad):

DIV 8 RTU 3E

DATE (Fecha):

11/16/2014

INMATE'S BRIEF SUMMARY OF THE COMPLAINT (Breve Resumen de los Hechos del Preso):

- An inmate wishing to file a grievance is required to do so within 15 days of the event he/she is grieving.
- Inmate Disciplinary Hearing Board decisions cannot be grieved or appealed through the use of an Inmate Grievance Request/Response/Appeal Form.
- When a grievance issue is processed as a NON-GRIEVANCE (REQUEST), an inmate may re-submit the grievance issue after 15 days to obtain a "Control Number" if there has been no response to the request or the response is deemed unsatisfactory.

Un preso que desea llenar una queja, se le requiere que lo haga dentro de los 15 días después del incidente.

Las decisiones del Comité Disciplinario de los presos, no podrán ser cuestionadas o Apeladas a través del uso del Formulario de Quejas/Respuesta/Forma de Apelación.

Cuando una Queja se procesa como una QUEJA NO (PETICION), un preso podría re-someter una Queja después de los 15 días para recibir un "Numero de Control", ya sea porque no hay una respuesta o porque la respuesta es insatisfactoria.

PLEASE INCLUDE:

(Por Favor, Incluye:

Date of Incident

Fecha Del Incidente

Time of Incident

Hora Del Incidente

Specific Location of Incident

Lugar Especifico Del Incidente)

I Am Disabled I have one Leg. AT The Change of Shift I need to go to The Bathroom The Officer Finish his count and Let me out of The Cell to use The Bathroom I could not use The Toilet BECAUSE THE RAILS ARE IN The wrong place I wear A Prost Leg The could not Put on My Right Leg BECAUSE my leg WAS Swollen, I Am in A Cell with a toilet That I CAN NOT USE This is cell 6 I WAS in Cell 10 AND I could use The toilet I WAS move to Cell.

ACTION THAT YOU ARE REQUESTING (Acción que está solicitando):

Cell with BARS OR RAILS IN The Right Place Hospital Bed Raise my Legs Stop Swollen

NAME OF STAFF OR INMATE(S) HAVING INFORMATION REGARDING THIS COMPLAINT:
(Nombre del personal o presos que tengan información):

OFFICER HASKELL

INMATE SIGNATURE (Firma del Preso):

James Roberts

SUPERINTENDENTS/DIRECTORS/DESIGNEES OF A DIVISION/UNIT MUST REVIEW AND SIGN ALL GRIEVANCES ALLEGING STAFF USE OF FORCE, STAFF MISCONDUCT, AND EMERGENCY GRIEVANCES. IF THE INMATE GRIEVANCE IS OF A SERIOUS NATURE, THE SUPERINTENDENT MUST INITIATE IMMEDIATE ACTION.

CRW/PLATOON COUNSELOR (Print):

bill

SIGNATURE:

(Signature)

DATE CRW/PLATOON COUNSELOR RECEIVED:

11/17/14

SUPERINTENDENT/DIRECTOR/DESIGNEE (Print):

SIGNATURE:

DATE REVIEWED:



COOK COUNTY SHERIFF'S OFFICE
(Oficina del Aguacil del Condado de Cook)

☐ GRIEVANCE ☒ NON-GRIEVANCE (REQUEST)

INMATE GRIEVANCE RESPONSE / APPEAL FORM
(Petición de Queja del Preso/Respuesta/Forma de Apelación)

CONTROL #

N/A

INMATE INFORMATION

INMATE LAST NAME (Apellido del Preso):

Roberts

INMATE FIRST NAME (Primer Nombre):

James

ID Number (# de Identificación):

2014 091 0003

GRIEVANCE / NON-GRIEVANCE (REQUEST) REFERRAL & RESPONSE

(EMERGENCY GRIEVANCES ARE THOSE INVOLVING AN IMMEDIATE THREAT TO THE WELFARE OR SAFETY OF AN INMATE)

CRW/PLATOON COUNSELOR'S SUMMARY OF THE COMPLAINT:

OIO-ADA Issues

IMMEDIATE CRW/PLATOON COUNSELOR RESPONSE (if applicable):

CRW/PLATOON COUNSELOR REFERRED THIS GRIEVANCE/REQUEST TO (Example: Superintendent, Cermak Health Services, Personnel):

D.O.C. Admin

DATE REFERRED:

11/17/14

RESPONSE BY PERSONNEL HANDLING REFERRAL:

Mr. Roberts requires a wheelchair for long distances only per his medical alerts. Mr. Roberts should not have a wheelchair on the living unit. As a reminder the bathroom in the dayroom has rails.

PERSONNEL RESPONDING TO GRIEVANCE (Print):

Marlene Fuentes

SIGNATURE:

Marlene Fuentes

DIV./DEPT.

DATE:

11/14/14

Superintendents of a division/unit must review all responses to grievances alleging staff use of force, staff misconduct and emergency grievances.

SUPERINTENDENT/DIRECTOR/DESIGNEE (Print):

SIGNATURE:

DIV./DEPT.

DATE:

NON-GRIEVANCE (REQUEST) SUBJECT CODE (Check applicable box):

☐ GRIEVANCE SUBJECT CODE:

☐ NON-GRIEVANCE SUBJECT CODE:

INMATE SIGNATURE (Firma del Preso):

James Roberts

DATE RESPONSE WAS RECEIVED:

(Fecha en que la respuesta fue recibida):

11/19/2010

INMATE'S REQUEST FOR AN APPEAL (Solicitud de Apelación del Preso)

- * To exhaust administrative remedies, appeals must be made within 14 days of the date the inmate received the response.
- * Las apelaciones tendrán que ser sometidas dentro de los 14 días; a partir que el preso recibió la respuesta para agotar todas las posibles respuestas administrativas.

DATE OF INMATE'S REQUEST FOR AN APPEAL: (Fecha de la solicitud de la apelación del detenido):

INMATE'S BASIS FOR AN APPEAL: (Base del detenido para una apelación):

ADMINISTRATOR/DESIGNEE'S ACCEPTANCE OF INMATE'S APPEAL?
(¿Apelación del detenido aceptada por el administrador o/su designado(a)?)

Yes (Si)

No

☐

☐

ADMINISTRATOR/DESIGNEE'S DECISION OR RECOMMENDATION: (Decisión o recomendación por parte del administrador o/su designado(a).)

ADMINISTRATOR/DESIGNEE (Administrador o/su Designadora):

SIGNATURE (Firma del Administrador o/su Designadora):

DATE (Fecha):

INMATE SIGNATURE (Firma del Preso):

DATE INMATE RECEIVED APPEAL RESPONSE

(Fecha en que el preso recibió respuesta a su apelación):

CCSAO Roberts 000 Plaintiff's Exhibit 19 Page 3



COOK COUNTY SHERIFF'S OFFICE
(Oficina del Alguacil del Condado de Cook)

INMATE GRIEVANCE FORM
(Formulario de Queja del Preso)

☐ GRIEVANCE

☒ NON-GRIEVANCE (REQUEST)

CONTROL #

N/A

This section is to be completed by Program Services Staff - ONLY! (Para ser llenado solo por el personal de Program Services!)

GRIEVANCE FORM PROCESSED AS:

- ☐ EMERGENCY GRIEVANCE
☐ GRIEVANCE
☒ NON-GRIEVANCE (REQUEST)

REFERRED TO:

- ☐ CERMAK HEALTH SERVICES
☐ SUPERINTENDENT:
☒ OTHER: D.O.C Admin

Program Services Supervisor Approving Non-Grievance (Request) Signature

INMATE INFORMATION (Información del Preso)

PRINT - INMATE LAST NAME (Apellido del Preso):

ROBERTS

PRINT - FIRST NAME (Primer Nombre):

James

ID Number (# de identificación):

20140910003 704888

DIVISION (División):

DIV 8 RTU 3E

LIVING UNIT (Unidad):

DIV 8 RTU 3E

DATE (Fecha):

11/15/2014

INMATE'S BRIEF SUMMARY OF THE COMPLAINT (Breve Resumen de los Hechos del Preso):

- * An inmate wishing to file a grievance is required to do so within 15 days of the event he/she is grieving.
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* When a grievance issue is processed as a NON-GRIEVANCE (REQUEST), an inmate may re-submit the grievance issue after 15 days to obtain a "Control Number" if there has been no response to the request or the request is deemed unsatisfactory.
* Un preso que desea llenar una queja, se le requiere que lo haga dentro de los 15 días después del incidente.
* Las decisiones del Comité Disciplinario de los presos, no podrán ser cuestionadas o apeladas a través del uso del Formulario de Quejas / Respuesta / Forma de Apelación.
* Cuando una queja se procesa como una QUEJAS NO (PETICIÓN), un preso podría re-someter una Queja después de los 15 días para recibir un "Numero de Control", ya sea porque no hay una respuesta o porque la respuesta es insatisfactoria.

PLEASE INCLUDE:
(Por Favor, Incluya:

Date of Incident
Fecha Del Incidente

Time of Incident
Hora Del Incidente

Specific Location of Incident
Lugar Especifico Del Incidente)

I CANNOT USE THE TOILET BECAUSE THERE ARE NO BARS OR RAILS TO PULL UP WITH I CANNOT GET UP OR DOWN ON THE TOILET THE BED IS TOO SMALL FOR ME I AM AFRAID EVERY NIGHT THAT I AM GOING TO FALL I HAVE BLOOD CLOTS BECAUSE OF FALLING I CANNOT SLEEP AT NIGHT MY LEGS SWOLLEN BECAUSE I CANNOT RAISE MY LEGS I CANNOT SEE AT NIGHT BECAUSE THE CELL IS DARK I HAVE A HIGH RISK OF FALLING I LOOSE MY BALANCE BECAUSE I AM NOT GETTING ENOUGH OXYGEN TO MY BRAIN I CANNOT USE THE DESK BECAUSE I CANNOT REACH IT SO I CANNOT WRITE. I NEED BARS OR RAILS TO PULL UP I NEED A WIDER BED I NEED A LARGER MATTRESS I NEED TO RAISE MY FEET AND LEGS I NEED A DESK AT I CAN USE WITH THE SEAT IN THE WAY

ACTION THAT YOU ARE REQUESTING (Acción que esta solicitando):

NAME OF STAFF OR INMATE(S) HAVING INFORMATION REGARDING THIS COMPLAINT:
(Nombre del personal o presos que tengan información):

INMATE SIGNATURE (Firma del Preso):

James Roberts

SUPERINTENDENTS / DIRECTORS / DESIGNEES OF A DIVISION/UNIT MUST REVIEW AND SIGN ALL GRIEVANCES ALLEGING STAFF USE OF FORCE, STAFF MISCONDUCT, AND EMERGENCY GRIEVANCES. IF THE INMATE'S GRIEVANCE IS OF A SERIOUS NATURE, THE SUPERINTENDENT MUST INITIATE IMMEDIATE ACTION.

CRW / PLATOON COUNSELOR (Print):

Bell

SIGNATURE:

(Signature)

DATE CRW/PLATOON COUNSELOR RECEIVED:

11/18/14

SUPERINTENDENT / DIRECTOR / DESIGNEE (Print):

SIGNATURE:

DATE REVIEWED:

CCSAO Roberts 000 Plaintiff's Exhibit 19 Page 4



COOK COUNTY SHERIFF'S OFFICE
(Oficina del Aguacil del Condado de Cook)

☐ GRIEVANCE ☒ NON-GRIEVANCE (REQUEST)

INMATE GRIEVANCE RESPONSE / APPEAL FORM
(Petición de Queja del Preso/Respuesta/Forma de Apelación)

CONTROL #

ID Number (# de Identificación):

2014011003

INMATE INFORMATION

INMATE LAST NAME (Apellido del Preso):

Roberts

INMATE FIRST NAME (Primer Nombre):

JAMES

GRIEVANCE / NON-GRIEVANCE (REQUEST) REFERRAL & RESPONSE
(EMERGENCY GRIEVANCES ARE THOSE INVOLVING AN IMMEDIATE THREAT TO THE WELFARE OR SAFETY OF AN INMATE)

CRW/PLATOON COUNSELOR'S SUMMARY OF THE COMPLAINT

010 - ATSA Accommodation Issues

IMMEDIATE CRW/PLATOON COUNSELOR RESPONSE (if applicable):

N/A

CRW/PLATOON COUNSELOR REFERRED THIS GRIEVANCE/REQUEST TO (Example: Superintendent, Cermak Health Services, Personnel):

D.O.C Admin

DATE REFERRED: 11/18/14

RESPONSE BY PERSONNEL HANDLING REFERRAL:

Mr. Roberts requires a wheelchair for long distances only per his medical alerts. However, Mr. Roberts is currently housed in a cell with grab bars. Please submit a medical request form for all medical concerns.

PERSONNEL RESPONDING TO GRIEVANCE (Print):

Marlene Fuentes

SIGNATURE:

Marlene Fuentes

DIV./DEPT.

DATE:

11/25/14

Superintendents of a division/unit must review all responses to grievances alleging staff use of force, staff misconduct and emergency grievances.

SUPERINTENDENT/DIRECTOR/DESIGNEE (Print):

SIGNATURE:

DIV./DEPT.

DATE:

NON-GRIEVANCE (REQUEST) SUBJECT CODE (Check applicable box):

☐ GRIEVANCE SUBJECT CODE:

☐ NON-GRIEVANCE SUBJECT CODE:

INMATE SIGNATURE (Firma del Preso):

X James Roberts

DATE RESPONSE WAS RECEIVED:

(Fecha en que la respuesta fue recibida):

12/5/2014

INMATE'S REQUEST FOR AN APPEAL (Solicitud de Apelación del Preso)

- * To exhaust administrative remedies, appeals must be made within 14 days of the date the inmate received the response.
- * Las apelaciones tendrán que ser sometidas dentro de los 14 días; a partir que el preso recibió la respuesta para agotar todas las posibles respuestas administrativas.

DATE OF INMATE'S REQUEST FOR AN APPEAL: (Fecha de la solicitud de la apelación del detenido):

INMATE'S BASIS FOR AN APPEAL: (Base del detenido para una apelación):

ADMINISTRATOR/DESIGNEE'S ACCEPTANCE OF INMATE'S APPEAL?
(¿Apelación del detenido aceptada por el administrador o su designado(a)?)

Yes (Si)

No

ADMINISTRATOR/DESIGNEE'S DECISION OR RECOMMENDATION: (Decisión o recomendación por parte del administrador o su designado(a))

ADMINISTRATOR/DESIGNEE (Administrador o su Designado(a))

SIGNATURE (Firma del Administrador o su Designado(a))

DATE (Fecha):

INMATE SIGNATURE (Firma del Preso)

DATE INMATE RECEIVED APPEAL RESPONSE

CCSAO Roberts 000 Plaintiff's Exhibit 19 Page 5



Cook County Health and Hospitals System

1900 West Polk Street, Chicago, Illinois 60612

Toni Preckwinkle

President, Board of Cook County Commissioners

Affiliates

Ambulatory & Community Health Network of Cook County

Provident Hospital of Cook County

Cermak Health Services of Cook County

Oak Forest Health Center of Cook County

Cook County Department of Public Health

Ruth M Rothstein CORE Center

John H. Stroger, Jr. Hospital of Cook County

Patient Name: ROBERTS, JAMES

Patient Type: Clinic Outpatient

Admission Date: 11/14/2014

MRN: 005007433c; 00704888z

Birth Date:

Discharge Date: 11/14/2014

Gender: Male

CMRN: 1012697414

FIN: 0749857785

Amputee Outpt

Document Type:

Amputee Outpt

Service Date/Time:

11/14/2014 09:05 CST

Result Status:

Auth (Verified)

Perform Information:

MCCARTHY DO, THERESA M (11/14/2014 09:27 CST)

Sign Information:

MCCARTHY DO, THERESA M (11/19/2014 21:53 CST)

R BKA problems

Patient: ROBERTS, JAMES

MRN: 005007433c

FIN: 0749857785

Age: 66 years Sex: Male DOB:

Associated Diagnoses: None

Author: MCCARTHY DO, THERESA M

Visit Information

Visit type: New patient evaluation.**Accompanied by:** DOC Officers.**Source of history:** Self, Medical record.**History limitation:** None.

Chief Complaint

66 y/o with right BKA due to blood clots at Weiss memorial about 9 months ago. Was a street evangelist, social worker prior to blood clots. Made at continental NH, south of foster and western. Now under DOC and 'pain with walking'

History of Present Illness

The patient presents with loose fitting prosthesis, short on right.

Review of Systems

Constitutional: Decreased activity.**Eye:** Negative.**Ear/Nose/Mouth/Throat:** Negative.**Respiratory:** Shortness of breath, Cough.**Cardiovascular:** No chest pain.**Gastrointestinal:** Negative.**Genitourinary:** Negative.**Hematology/Lymphatics:** Bruising tendency, Bleeding tendency.

Report Request ID: 37971537

Page 2 of 6

Facility: ACHN

Location: Amputee (SC)

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Cook County Health and Hospitals System

1900 West Polk Street, Chicago, Illinois 60612

Patient Name: ROBERTS, JAMES

Patient Type: Clinic Outpatient

Admission Date: 11/14/2014

MRN: 005007433c; 00704888z

Birth Date:

Discharge Date: 11/14/2014

Gender: Male

CMRN: 1012697414

FIN: 0749857785

Amputee Outpt**Endocrine:** Negative except as documented in history of present illness.**Musculoskeletal:** Negative except as documented in history of present illness.**Integumentary:** Negative except as documented in history of present illness.**Neurologic:** Negative except as documented in history of present illness.**Health Status****Allergies:**Allergic Reactions (Selected)

No Known Medication Allergies

Current medications: (Selected)Outpatient Medications*Ordered*

acetaminophen: 650 MG, 2 TAB, PO, Q 8 Hr, PRN: Pain

emollients, topical cream: 1 APP, Topical, Daily kop

enalapril: 20 MG, 1 TAB, PO, Daily

insulin lispro: 8 UNITS, 0.08 ML, SQ, TID with meals

prenatal multivitamin: 1 TAB, PO, Daily

sodium chloride 0.65% nasal spray: 1 SPRAY, Nostril, Both, Q 1 Hr, PRN: Nasal Congestion

supplemental insulin, regular: ss dose, SQ, TID AC & bedtime, PRN: Other - See Instruction to Nursing

warfarin: 4 MG, 1 TAB, PO, Bedtime

warfarin: 5 MG, 1 TAB, PO, Bedtime

Pending Complete

insulin Lantus: 20 UNITS, 0.2 ML, SQ, Bedtime

Problem list:All Problems

DVT (deep venous thrombosis) / 194647015 / Confirmed

Diabetes / 121589010 / Confirmed

HTN (hypertension) / 1215744012 / Confirmed

Histories**Past Medical History:** DM, HTN, DVT, clotting problems**Family History:**

No family history items have been selected or recorded.

Procedure history:

No active procedure history items have been selected or recorded.

Social History

DOC detainee, prosthesis is copoly socket, locking liner with pin, external socks (maker unknown), prosthesis is short.

Physical Examination**VS/Measurements**

Vital Signs

Report Request ID: 37971537

Page 3 of 6

Facility: ACHN

Location: Amputee (SC)

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Cook County Health and Hospitals System

1900 West Polk Street, Chicago, Illinois 60612

Patient Name: ROBERTS, JAMES

Patient Type: Clinic Outpatient

Birth Date: 8

Gender: Male

FIN: 0749857785

Admission Date: 11/14/2014

Discharge Date: 11/14/2014

MRN: 005007433c; 00704888z

CMRN: 1012697414

Amputee Outpt

11/13/2014 09:37

Temperature Oral

97.3 DegF

Pulse Rate

63 bpm

Respiratory Rate

18 breaths/min

Oxygen Saturation

96 %

Oxygen Delivery Device

Room air

Systolic Blood Pressure**152 mmHg HI**

Diastolic Blood Pressure

75 mmHg

NIBP Site

Arm, Left

General: Alert and oriented, No acute distress.**Cardiovascular:** Edema: Left, Pretibial, Ankle, Foot, 1+.**Musculoskeletal:**

Mobility/ gait: antalgic gait on right, large step down.

Lower extremity exam: Lower leg (Right, Strength 5 /5, distal stump with pressure area on skin from weight bearing but skin intact), All other lower extremities are normal.

Neurologic: No focal deficits.**Review / Management****Laboratory Results**

Reviewed labs

Impression and Plan**Diagnosis**

S/p BKA (below knee amputation) unilateral : ICD9 V49.75, Discharge DX, Medical.

Patient Instructions: THERESA MCCARTHY , only if needed.

Counseled: Patient, Regarding diagnosis, Regarding medications, Activity, Verbalized understanding, Added stump socks, added extra insole to shoe as prosthesis is short. Much improved, patient walked without pain at clinic.

Electronically Authored On: 19-Nov-14 21:53

Electronically Signed By: MCCARTHY DO, THERESA M

PAGER BUS: 708 319 6407

Report Request ID: 37971537

Page 4 of 6

Facility: ACHN

Location: Amputee (SC)

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Cook County Health and Hospitals System

1900 West Polk Street, Chicago, Illinois 60612

Patient Name: ROBERTS, JAMES

Patient Type: Visit CHS

Admission Date: 9/10/2014

MRN: 005007433c; 00704888z

Birth Date:

Discharge Date:

Gender: Male

FIN: 20140910003

CMRN: 1012697414

Outpt PT-OT-CHS

x Gym Treatment plan as follows: Focus on Bil LE strengthening (Especially hip abductors/extensors), balance, core strengthening, amb with cane or crutch.

Ext/ Pager:

#44970

*Electronically Authored On: 05-Feb-15 19:07**Electronically Signed By: STOPKA, JOHN**SH - OT/PT - Physical Therapist*

Document Type:

Outpt PT-OT CHS

Service Date/Time:

3/11/2015 17:43 CDT

Result Status:

Auth (Verified)

Perform Information:

LASSA,PATRICE (3/11/2015 17:44 CDT)

Sign Information:

LASSA,PATRICE (3/11/2015 18:33 CDT)

Outpatient Physical Therapy Note**__Initial Evaluation __x_Daily Note __Progress Report __Other:**

Reason for Referral: Pt. is a 66 y/o with right BKA due to blood clots at Weiss memorial over a year ago. Seen in November, adjustments made to prosthesis and socks added. Now wrapping and adding 4x4's to tighten socket as dropping in too far. Wearing OWW large liner with locking pin.

Diagnosis: Right BKA**PMH:** DM, HTN, DVT, clotting problems.**Date of onset/date of surgery:** "Approximately 2014"**I.D. x 2:** __x_ Name __x_ DOB __ MR # __ Other:

S: Reports that he needs to get as strong as possible because he is on a "mission in Jesus' name" Requesting more soap, a shrinker and a taller walker. Pt reported a number times that he was being discriminated against due to his handicap, size and religious beliefs. Instructed pt to speak to social work re complaints; pt verbalized understanding. This therapist had to calm pt down and explained to him re PT intervention/POC.

(EVAL)Patient reports he has increased pain over the right side of his knee (fibular head) from the compression by the socket.

Patient reports he needs the prosthesis corrected.

Pain scale (0= none, 10= worst): 3-5/10 VAS(EVAL); no pain currently**Level of function prior to onset:** Independent with use of walker**Impact of current symptoms on function:** Requires use of right LE prosthesis (Silicone sleeve with interlocking pin).**Pt goal:** To be able to walk well without a device. To correct prosthesis.**O:**

(EVAL)

Primary language: __x_ English __ Spanish __ Polish __ Other:

Report Request ID: 36447402

Page 2,083 of 6,855

Facility: CHS

Location: 084A; 10; 2

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Cook County Health and Hospitals System

1900 West Polk Street, Chicago, Illinois 60612

Patient Name: ROBERTS, JAMES

Patient Type: Visit CHS

Admission Date: 9/10/2014

MRN: 005007433c; 00704888z

Birth Date:

Discharge Date:

Gender: Male

FIN: 20140910003

CMRN: 1012697414

Outpt PT-OT-CHS

Interpreter present if needed: ___Yes ___No ___x_No Need

Observation: Patient entered PT dept with walker and RLE prosthesis donned.**Cognitive:** A&O x3. Follows all commands.**ROM/Strength:** WFL BUE and BLE except as indicated

Motion	L	PROM (degrees)	AROM (degrees)	Strength (out of 5)	R	PROM (degrees)	AROM (degrees)	Strength (out of 5)	Comments
Hip flex				4+/5(EVAL L)				4/5(EVAL)	
Hip Abd				3+/5(EVAL L)				3/5(EVAL)	
Hip Ext				3+/5(EVAL L)				3/5(EVAL)	
Knee Ext				4+/5(EVAL L)				4/5(EVAL)	
Knee Flex				4+/5(EVAL L)				4/5(EVAL)	

(EVAL)

Neurological assessments: Sensation: Intact to light touch of Bil LEs.**Other:** Calcium deposit of medial aspect of right knee (3" length)

Right fibular head redness with tenderness to palpation.

Functional skill level/mobility testing**Bed mobility:** independent**Transfers:** independent**Balance:** Static: WNL with walker

Dynamic: WNL with walker.

Gait: No deviations except as indicated in table

Mark if present	Deviation		Left	Right	Deviation
	Decreased cadence				Decreased stride length
x	Decreased trunk rotation			x	Decreased weight shift
x	Forward flexed posture		x	x	Decreased arm swing
	Decreased balance			x	Trendelenberg
				x	Decreased stance time

Report Request ID: 36447402

Page 2,084 of 6,855

Facility: CHS

Location: 084A; 10; 2

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Cook County Health and Hospitals System

1900 West Polk Street, Chicago, Illinois 60612

Patient Name: ROBERTS, JAMES

Patient Type: Visit CHS

Admission Date: 9/10/2014

MRN: 005007433c; 00704888z

Birth Date:

Discharge Date:

Gender: Male

FIN: 20140910003

CMRN: 1012697414

Outpt PT-OT-CHS

			x	Decreased push off
--	--	--	---	--------------------

Gait Device Used: Walker with right LE prosthesis.**Patient/caretaker were instructed in and/or performed:**

(If no reps or comments are indicated, activity was not performed during this session.)

Specific Intervention/exercises performed	Added to HEP	* Assist /skilled intervention required	Reps	*PR	Comments
Quadsets	x	VCs	10	4	
Bridging through left LE	x	VCs	10	4	
Supine Hip add	x	VCs	10	4	
Sidelying Hip Abd	x	VCs	10	4	
Sidelying hip Ext	x	VCs	10	4	
Plank on knees and sidelying plank on knees	x	vc, ba	10 secs x 3	2,4	
Push ups on knees	x	vc, ba	10 secs x 3	2,4	
Sit<>stand in 30secs with UE support	x	vc	9 reps	2,4	goal to increase cardio and to perform 15-18 reps; poor eccentric control

Report Request ID: 36447402

Page 2,085 of 6,855

Facility: CHS

Location: 084A; 10; 2

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Cook County Health and Hospitals System

1900 West Polk Street, Chicago, Illinois 60612

Patient Name: ROBERTS, JAMES

Patient Type: Visit CHS

Admission Date: 9/10/2014

MRN: 005007433c; 00704888z

Birth Date:

Discharge Date:

Gender: Male

FIN: 20140910003

CMRN: 1012697414

Outpt PT-OT-CHSKEY: * Assistance/Skilled intervention requiredKey: * Patient Response (PR)**VC**= Verbal cues**1** = Complaint of pain**TC**= Tactile cues**2** = Complaint of fatigue**PE** = Physiologic effect**3** = Decreased symptoms**AR** = Anatomical review**4** = Performs independently**BA** = Body alignment**5** = Unable to perform**6** = Other (specify)**Education:**☐ Precautions☒ PT role/plan of care/discharge recommendations☒ Anatomy with posters/models☒ Written home exercise program handouts issued and instructed to perform exercises 3 times a day.☒ Patient/caregiver demonstrate/verbalize understanding of principles taught today.☐ Patient &/or patient's family/caretaker does not demonstrate/verbalize understanding of principles taught today & requires further education and assistance.**Equipment issued:** HEP handouts, RLE tubigrip x2, Please provide patient with extra bar of soap to be able to keep prosthesis and tubigrip hygienic.**A:**

(EVAL)

Pt. is a 66 y/o with right BKA due to blood clots at Weiss memorial over a year ago. Seen in November, adjustments made to prosthesis and socks added. Now wrapping and adding 4x4's to tighten socket as dropping in too far. Wearing OWW large liner with locking pin.

Fall risk: No**Appointments attended:** 2/8**Missed/rescheduled appointments:** 0**Primary problems/impairments/limitations:**

	Decreased tissue mobility/ range of motion			Impaired posture
x	Decreased strength			Poor body mechanics
x	Impaired balance			Impaired coordination
	Impaired sensation			Cognitive deficits/knowledge deficits
	Impaired endurance			Impaired functional mobility
	Edema		x	Pain

Report Request ID: 36447402

Page 2,086 of 6,855

Facility: CHS

Location: 084A; 10; 2

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Cook County Health and Hospitals System

1900 West Polk Street, Chicago, Illinois 60612

Patient Name: ROBERTS, JAMES

Patient Type: Visit CHS

Admission Date: 9/10/2014

MRN: 005007433c; 00704888z

Birth Date:

Discharge Date:

Gender: Male

FIN: 20140910003

CMRN: 1012697414

Outpt PT-OT-CHS

Abnormal tone		Muscle guarding
Decreased core stability		Other:

Specific skilled physical therapy interventions (noted in the therapy plan section of the clinical note) are required to achieve the functional goals.

Patient's Progress: 3/11/15 very motivated, good response to increase of ther ex and good recall of HEP indicating that pt is performing. **MD- please place an order for pt to have extra soap to keep prosthesis and tubigrip clean, tall extensors for walker and may benefit from a shrinker to be worn at night to management edema in stump.**

(EVAL) Patient presents with independent bed mobility, transfers, and ambulation with use of walker and right lower extremity prosthesis. Patient presents with obvious abnormal gait pattern due to strength deficits and pain from report of improper fit of prosthesis. PT provided patient with guaze to pad areas of pressure (right fibular head and medial aspect of tibia) in addition to tubigrip to control edema in the evening as patient reports he does not have a stump shrinker.

P:

Functional Long Term Goals: To be met in 8 treatments starting 2/5/15 (eval date) and ending in 8 weeks.

1. Increase strength(specify): of right knee flex/ext: 4+/5; Hip flex/Ext/Abd: 4+/5

 Increase AROM (specify):

 Patient able to perform bed mobility independently.

 Patient able to perform transfers independently.

2. Patient able to ambulate 150 feet independently with cane.

 Patient able to negotiate 4 stairs independently with least assist device and with one rail.

 Patient able to ambulate at least block(s) with assistive device independently with pain at /10.

 Patient able to understand & perform proper body mechanics to decrease pain and risk for future injury.

3. Patient/family able to perform home exercise program independently to maintain/further improve functional gains attained in P.T.

 Other:

Goal status/progress: Initial

Intervention plan:

Continue therapy to address problems and work toward goals set. Planned interventions at time of evaluation are marked

	Treatment intervention		Treatment intervention		Treatment intervention
x	97110 - Ther exercise		97760 - Orthotic mgmt/fit/train		97032 - Estim – attended
x	97530 - Ther activity		97762 - Orth/prosth check-out		97014 - Estim – unattend
	97150 - Ther group		97761 - Prosthetic training		97035 - Ultrasound
	97112 - Neuromusc re-ed		97542 - W/C mgmt training		97022 - Fluidotherapy
x	97116 - Gait training		97532 - Cognitive training		97010 - Hot/cold pack
	97140 - Manual therapy		97750 - Perform testing		97535 - ADLs

 Endorse to OP PT staff therapist following existing plan (if still applicable)

 Endorse to PTA with supervision of original physical therapist.

Report Request ID: 36447402

Page 2,087 of 6,855

Facility: CHS

Location: 084A; 10; 2

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Cook County Health and Hospitals System

1900 West Polk Street, Chicago, Illinois 60612

Patient Name: ROBERTS, JAMES

Patient Type: Visit CHS

Admission Date: 9/10/2014

MRN: 005007433c; 00704888z

Birth Date:

Discharge Date:

Gender: Male

FIN: 20140910003

CMRN: 1012697414

Outpt PT-OT-CHS☐ Continue same treatment plan.☐ DC OP PT☒ Gym Treatment plan as follows: Focus on Bil LE strengthening (Especially hip abductors/extensors), balance, core strengthening, amb with cane or crutch.**Ext/ Pager:**

#44970

*Electronically Authored On: 11-Mar-15 18:33**Electronically Signed By: LASSA, PATRICE**CHS - Medicine - PTA*

Document Type:

Outpt PT-OT CHS

Service Date/Time:

4/22/2015 12:50 CDT

Result Status:

Auth (Verified)

Perform Information:

LASSA,PATRICE (4/22/2015 12:51 CDT)

Sign Information:

LASSA,PATRICE (4/22/2015 12:51 CDT)

No Show Note

Patient did not show for today's scheduled appointment; will reschedule.

*Electronically Authored On: 22-Apr-15 12:51**Electronically Signed By: LASSA, PATRICE**CHS - Medicine - PTA*

Document Type:

Outpt PT-OT CHS

Service Date/Time:

4/29/2015 14:25 CDT

Result Status:

Auth (Verified)

Perform Information:

LASSA,PATRICE (4/29/2015 14:26 CDT)

Sign Information:

LASSA,PATRICE (4/29/2015 14:26 CDT)

Report Request ID: 36447402

Page 2,088 of 6,855

Facility: CHS

Location: 084A; 10; 2

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Cook County Health and Hospitals System

1900 West Polk Street, Chicago, Illinois 60612

Patient Name: ROBERTS, JAMES

Patient Type: Emergency

Admission Date: 3/14/2015

MRN: 005007433c; 00704888z

Birth

Discharge Date: 3/15/2015

Gender: Male

CMRN: 1012697414

FIN: 0755399730

ED Note - Physician

Document Type:

ED Note-Physician

Service Date/Time:

3/14/2015 21:00 CDT

Result Status:

Auth (Verified)

Perform Information:

LEE MD,MOSES S (3/14/2015 21:04 CDT)

Sign Information:

LEE MD,MOSES S (3/14/2015 22:41 CDT)

[X]Falls

Patient: ROBERTS, JAMES

MRN: 005007433c

FIN: 0755399730

Age: 66 years Sex: Male DOB:

Associated Diagnoses: None

Author: LEE MD, MOSES S

Basic Information**ED Provider Contact Time:**

LEE MD, MOSES S 03/14/15 19:51

Time seen: Date & time 03/14/2015 21:00:00.**History source:** Patient.**Arrival mode:** Walking.**History limitation:** None.**Additional information:** Chief Complaint from Nursing Triage Note : Chief Complaint

3/14/2015 20:05

Primary Chief Complaint

Back pain 724.5

Secondary Chief Complaint

Neck pain 723.1

Chief Complaint Additional
InfoPT ARRIVE VIA ATI FOR
NECK AND BACK PAIN S/P
FALL

3/14/2015 18:29

Primary Chief Complaint

In Error

(In Error)

3/14/2015 18:04

Primary Chief Complaint

Medical problem V70.9

Chief Complaint Additional
Info

Pt. sts. c/o fall BHT

Ebola/ILI Screen:

3/14/2015 19:49

Have you had a fever recently?

No

Travel to West Africa/Ebola
contact?

No

3/14/2015 19:49

Do you have a cough?

No

History of Present Illness

Report Request ID: 37971536

Page 11 of 57

Facility: Stroger

Location: SHCC ED

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Cook County Health and Hospitals System

1900 West Polk Street, Chicago, Illinois 60612

Patient Name: ROBERTS, JAMES

Patient Type: Emergency

Admission Date: 3/14/2015

MRN: 005007433c; 00704888z

Birth Date:

Discharge Date: 3/15/2015

Gender: Male

CMRN: 1012697414

FIN: 0755399730

ED Note - Physician

The patient presents following 66 yo M with h/o HTN, DM, right BKA< psychiatric disorder, who fell when his right protheses was not working, as per Cermak, no LOC, now with neck pain and headache. he was mildlu psychotic upon arrivla that was well copntrolled with ativan. denies any otehyr injury, no numbness or weakness..

Review of Systems**Constitutional symptoms:** Negative except as documented in HPI.**Skin symptoms:** Negative except as documented in HPI.**Eye symptoms:** Negative except as documented in HPI.**ENMT symptoms:** Negative except as documented in HPI.**Respiratory symptoms:** Negative except as documented in HPI.**Cardiovascular symptoms:** Negative except as documented in HPI.**Gastrointestinal symptoms:** Negative except as documented in HPI.**Genitourinary symptoms:** Negative except as documented in HPI.**Musculoskeletal symptoms:** Negative except as documented in HPI, right BKA.**Neurologic symptoms:** Negative except as documented in HPI.**Psychiatric symptoms:** Negative except as documented in HPI.**Endocrine symptoms:** Negative except as documented in HPI.**Hematologic/Lymphatic symptoms:** Negative except as documented in HPI.**Allergy/immunologic symptoms:** Negative except as documented in HPI.**Additional review of systems information:** All other systems reviewed and otherwise negative.**Health Status****Allergies:**Allergic Reactions (All)*Severity Not Documented*

Morphine- No reactions were documented.

Canceled/Inactive Reactions (All)

No Known Medication Allergies.

Past Medical/ Family/ Social History**Medical history**

Reviewed as documented in chart.

Past Medical History from Triage : Past Medical History

3/14/2015 20:05

Past medical history

Anemia, Diabetes,

Hypertension

3/14/2015 18:29

Past medical history

In Error

(In Error)

3/14/2015 18:04

Past medical history

Anemia, Diabetes,

Hypertension

Cardiovascular: hypertension.

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Facility: Stroger

Location: SHCC ED

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Cook County Health and Hospitals System

1900 West Polk Street, Chicago, Illinois 60612

Patient Name: ROBERTS, JAMES

Patient Type: Emergency

Admission Date: 3/14/2015

MRN: 005007433c; 00704888z

Birth Date: 8

Discharge Date: 3/15/2015

Gender: Male

CMRN: 1012697414

FIN: 0755399730

ED Note - Physician**Surgical history:** Reviewed as documented in chart.**Family history:** Reviewed as documented in chart.**Social history:** Reviewed as documented in chart.**Problem list:**All Problems

Cocaine abuse / 129874012 / Complaint of
 DVT (deep venous thrombosis) / 194647015 / Confirmed
 Diabetes / 121589010 / Confirmed
 HTN (hypertension) / 1215744012 / Confirmed.

Physical Examination**Vital Signs**

Measurements

3/14/2015 09:00

BMI

Not Done:

(Not Done)

 Patient/Family/Guardian
 Refused

Abdominal Circumference

Not Done:

(Not Done)

 Patient/Family/Guardian
 Refused

3/13/2015 09:39

BMI

Not Done:

(Not Done)

 Patient/Family/Guardian
 Refused

Abdominal Circumference

Not Done:

(Not Done)

 Patient/Family/Guardian
 Refused
General: Alert.**Skin:** Warm.**Head:** Atraumatic.**Neck:** Supple, vague cervical tenderness, no step down or deformity..**Eye:** Pupils are equal, round and reactive to light, extraocular movements are intact, normal conjunctiva.**Ears, nose, mouth and throat:** Tympanic membranes clear, oral mucosa moist, no pharyngeal erythema.**Cardiovascular:** Regular rate and rhythm, No murmur, Normal peripheral perfusion, No edema.**Respiratory:** Lungs are clear to auscultation, respirations are non-labored, breath sounds are equal, Symmetrical chest wall expansion.**Chest wall:** No tenderness, No deformity.**Back:** Nontender, Normal range of motion, Normal alignment, no step-offs.**Musculoskeletal:** Normal ROM, normal strength, no tenderness.**Gastrointestinal:** Soft, Nontender, Non distended, Normal bowel sounds, No organomegaly.**Genitourinary:** No tenderness, no discharge, normal external genitalia, no lesions.**Neurological:** Alert and oriented to person, place, time, and situation, No focal neurological deficit observed.

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MRN: 005007433c; 00704888z

Birth Date:

Discharge Date: 3/15/2015

Gender: Male

CMRN: 1012697414

FIN: 0755399730

ED Note - Physician**Medical Decision Making****Differential Diagnosis:** Fall.**Plan:** CT head/cervical spine.**Reexamination/ Reevaluation**

Vital signs

Basic Oxygen Information

3/14/2015 20:53

CT Cervical Spine w/o

(In Progress)

Contrast

CT Head w/o Contrast

(In Progress)

3/14/2015 20:14

ED Assessment

ED Nursing Progress Note

3/14/2015 20:05

Temperature Oral

97.3 DegF

Heart Rate

87 bpm

Respiratory Rate

17 breaths/min

Oxygen Saturation

96 %

Systolic Blood Pressure**168 mmHg >HHI****Diastolic Blood Pressure****94 mmHg HI**

Pain, Unable to Self Report

Unable to use pain scale

Fever?

No

Hemoptysis?

No

Night Sweats?

No

Previous Treatment?

No

Recent Weight Loss?

No

Afraid of your partner/family member

No

Forced sexual activities?

No

Partner emotionally or physically abused

No

Mode of Arrival

Ambulance

Accompanied By

Police

Primary Chief Complaint

Back pain 724.5

Secondary Chief Complaint

Neck pain 723.1

Chief Complaint Additional Info

PT ARRIVE VIA ATI FOR
NECK AND BACK PAIN S/P
FALL

Visit Reason

NECK AND BACK PAIN

Past medical history

Anemia, Diabetes,
Hypertension

Last Tetanus

Unknown

Triage Destination

Blue Team

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Facility: Stroger

Location: SHCC ED

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MRN: 005007433c; 00704888z

Birth Date:

Discharge Date: 3/15/2015

Gender: Male

CMRN: 1012697414

FIN: 0755399730

ED Note - Physician

	Ambulance Type	Private Ambulance	
	Meets Influenza CDC Guidelines	No	
	SAD PERSONS Scale	S = Sex (Male), S = Sickness, chronic disease	
3/14/2015 20:00	ED Triage	ED Triage	
3/14/2015 19:49	lorazepam	2 MG MG	
	Have you had a fever recently?	No	
	Travel to West Africa/Ebola contact?	No	
3/14/2015 19:49	Do you have a cough?	No	
3/14/2015 19:08	Acknowledgments	3A/RTU MH Rounds	
3/14/2015 18:29	Temperature Oral	In Error DegF	(In Error)
	Pulse Rate	In Error bpm	(In Error)
	Respiratory Rate	In Error breaths/min	(In Error)
	Oxygen Saturation	In Error %	(In Error)
	Oxygen Delivery Device	In Error	(In Error)
	Systolic Blood Pressure	In Error mmHg	(In Error)
	Diastolic Blood Pressure	In Error mmHg	(In Error)
	NIBP Site	In Error	(In Error)
	Mode of Arrival	In Error	(In Error)
	Accompanied By	In Error	(In Error)
	Primary Chief Complaint	In Error	(In Error)
	Past medical history	In Error	(In Error)
	Last Tetanus	In Error	(In Error)
	ER CHS	Cermak ED Triage	(In Error)
3/14/2015 18:23	Nursing Infirmary	Cermak Vital Signs/Resp/Measurements	
3/14/2015 18:04	Temperature Oral	98.8 DegF	
	Pulse Rate	88 bpm	
	Respiratory Rate	20 breaths/min	
	Oxygen Saturation	100 %	
	Oxygen Delivery Device	Room air	
	Systolic Blood Pressure	116 mmHg	
	Diastolic Blood Pressure	80 mmHg	
	NIBP Site	Arm, Left	
	Mode of Arrival	Walked	
	Accompanied By	Police	
	Primary Chief Complaint	Medical problem V70.9	
	Chief Complaint Additional Info	Pt. sts. c/o fall BHT	

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Admission Date: 3/14/2015

MRN: 005007433c; 00704888z

Birth Date:

Discharge Date: 3/15/2015

Gender: Male

CMRN: 1012697414

FIN: 0755399730

ED Note - Physician

	Past medical history	Anemia, Diabetes, Hypertension	
	Last Tetanus	Unknown	
	ER CHS	Cermak ED Triage	(Modified)
3/14/2015 17:43	insulin glargine	12 UNITS UNITS	
	insulin regular	5 UNITS UNITS	
3/14/2015 15:53	Bedside Glucose	206 mg/dL HI	(Modified)
3/14/2015 11:14	Nursing Infirmary	Cermak Vital	
		Signs/Resp/Measurements	
3/14/2015 11:13	Bedside Glucose	97 mg/dL	(Modified)
3/14/2015 10:00	insulin regular	Not Done:	(Not Done)
		Patient/Family/Guardian	
		Refused	
3/14/2015 09:00	Temperature Axillary	Not Done:	(Not Done)
		Patient/Family/Guardian	
		Refused	
	Temperature Axillary	Not Done:	(Not Done)
		Patient/Family/Guardian	
		Refused	
	Temperature Oral	Not Done:	(Not Done)
		Patient/Family/Guardian	
		Refused	
	Temperature Oral	Not Done:	(Not Done)
		Patient/Family/Guardian	
		Refused	
	Pulse Rate	Not Done:	(Not Done)
		Patient/Family/Guardian	
		Refused	
	Respiratory Rate	Not Done:	(Not Done)
		Patient/Family/Guardian	
		Refused	
	Oxygen Saturation	Not Done:	(Not Done)
		Patient/Family/Guardian	
		Refused	
	Oxygen Delivery Device	Not Done:	(Not Done)
		Patient/Family/Guardian	
		Refused	
	Respiratory Peak Flow	Not Done:	(Not Done)
		Patient/Family/Guardian	
		Refused	

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Patient Name: ROBERTS, JAMES

Patient Type: Emergency

Birth Date: 8

Gender: Male

FIN: 0755399730

Admission Date: 3/14/2015

Discharge Date: 3/15/2015

MRN: 005007433c; 00704888z

CMRN: 1012697414

ED Note - Physician

	Systolic Blood Pressure	Not Done: Patient/Family/Guardian Refused	(Not Done)
	Diastolic Blood Pressure	Not Done: Patient/Family/Guardian Refused	(Not Done)
	NIBP Site	Not Done: Patient/Family/Guardian Refused	(Not Done)
	BMI	Not Done: Patient/Family/Guardian Refused	(Not Done)
	Abdominal Circumference	Not Done: Patient/Family/Guardian Refused	(Not Done)
	Respiratory FiO2	Not Done: Patient/Family/Guardian Refused	(Not Done)
	CHS Vital Signs/Respiratory/Measurements	Not Done	(Not Done)
	Respiratory Oxygen Flow	Not Done: Patient/Family/Guardian Refused	(Not Done)
	Respiratory Peak Flow Pre Treatment	Not Done: Patient/Family/Guardian Refused	(Not Done)
	Respiratory Peak Flow Post Treatment	Not Done: Patient/Family/Guardian Refused	(Not Done)
3/14/2015 08:21	emollients, topical enalapril hydrochlorothiazide multivitamin, prenatal	1 APP APP 20 MG MG 25 MG MG 1 TAB TAB	
3/14/2015 04:48	insulin regular	Not Given: Patient/Family/Guardian Refused	(Not Done)
3/14/2015 04:47	Nursing Infirmary	Cermak Vital Signs/Resp/Measurements	
3/13/2015 19:06	insulin regular insulin regular	5 UNITS UNITS 2 UNITS UNITS	
3/13/2015 18:35	enalapril	20 MG MG	

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Patient Type: Emergency

Admission Date: 3/14/2015

MRN: 005007433c; 00704888z

Birth Date:

Discharge Date: 3/15/2015

Gender: Male

CMRN: 1012697414

FIN: 0755399730

ED Note - Physician

3/13/2015 17:17	insulin glargine Nursing Infirmary	12 UNITS UNITS Cermak Vital Signs/Resp/Measurements	
3/13/2015 16:13	Bedside Glucose	164 mg/dL HI	(Modified)
3/13/2015 13:53	Outpt Nursing CHS	CHS Segregation Rounds	
3/13/2015 11:44	Bedside Glucose	98 mg/dL	(Modified)
3/13/2015 10:00	insulin regular	Not Done:	(Not Done)
		Patient/Family/Guardian Refused	
3/13/2015 09:39	Temperature Axillary	Not Done:	(Not Done)
		Patient/Family/Guardian Refused	
	Temperature Axillary	Not Done:	(Not Done)
		Patient/Family/Guardian Refused	
	Temperature Oral	Not Done:	(Not Done)
		Patient/Family/Guardian Refused	
	Temperature Oral	Not Done:	(Not Done)
		Patient/Family/Guardian Refused	
	Pulse Rate	Not Done:	(Not Done)
		Patient/Family/Guardian Refused	
	Respiratory Rate	Not Done:	(Not Done)
		Patient/Family/Guardian Refused	
	Oxygen Saturation	Not Done:	(Not Done)
		Patient/Family/Guardian Refused	
	Oxygen Delivery Device	Not Done:	(Not Done)
		Patient/Family/Guardian Refused	
	Respiratory Peak Flow	Not Done:	(Not Done)
		Patient/Family/Guardian Refused	
	Systolic Blood Pressure	Not Done:	(Not Done)
		Patient/Family/Guardian Refused	
	Diastolic Blood Pressure	Not Done:	(Not Done)
		Patient/Family/Guardian Refused	

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MRN: 005007433c; 00704888z

Birth Date:

Discharge Date: 3/15/2015

Gender: Male

CMRN: 1012697414

FIN: 0755399730

ED Note - Physician

	NIBP Site	Not Done: Patient/Family/Guardian Refused	(Not Done)
	BMI	Not Done: Patient/Family/Guardian Refused	(Not Done)
	Abdominal Circumference	Not Done: Patient/Family/Guardian Refused	(Not Done)
	Respiratory FiO2	Not Done: Patient/Family/Guardian Refused	(Not Done)
	CHS Vital Signs/Respiratory/Measurements	Not Done	(Not Done)
	Respiratory Oxygen Flow	Not Done: Patient/Family/Guardian Refused	(Not Done)
	Respiratory Peak Flow Pre Treatment	Not Done: Patient/Family/Guardian Refused	(Not Done)
	Respiratory Peak Flow Post Treatment	Not Done: Patient/Family/Guardian Refused	(Not Done)
3/13/2015 09:00	emollients, topical enalapril hydrochlorothiazide multivitamin, prenatal	1 APP APP 20 MG MG 25 MG MG 1 TAB TAB	
3/13/2015 04:43	insulin regular	Not Given: Patient/Family/Guardian Refused	(Not Done)
	Nursing Infirmary	Cermak Vital Signs/Resp/Measurements	

Impression and Plan**Diagnosis**

Closed Head Trauma, cervical strain

Staffed

Staffed with EM attending, Dr.: LEE, MOSES.

Plan

Condition: Improved, Stable.

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Facility: Stroger

Location: SHCC ED

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Patient Type: Emergency

Admission Date: 3/14/2015

MRN: 005007433c; 00704888z

Birth Date:

Discharge Date: 3/15/2015

Gender: Male

CMRN: 1012697414

FIN: 0755399730

ED Note - Physician**Follow up with:****Scheduled Appointments**

Date	Location	/ Resource	/ Type
03/19/15 01:00 pm CONFIRMED	08 Medical RTU 3rd F	/ CHS Podiatry Div 08	/ CHS Podiatry
03/23/15 01:00 pm CONFIRMED	08 Mental Health RTU	/ CHS Psychiatry Div 0	/ CHS Psychiatry
03/31/15 08:00 am CONFIRMED	08 Medical RTU 3rd F	/ CHS PCC Div 08 RTU 3	/ CHS Primary Care
04/08/15 08:30 am CONFIRMED	08 Medical RTU 3rd F	/ CHS Anti-Coag Div 08	/ CHS Anti-Coagulation
04/13/15 09:00 am CONFIRMED	SC ENT Clinic D	/ Red (UIC) Resident 2	/ MC
05/13/15 09:00 am CONFIRMED	Cermak Basement	/ CHS Ophthalmology	/ CHS Ophthalmology

Counseled: Patient.**Disposition:** Patient care transitioned to: Time: 03/14/2015 23:00:00, on coming team.

Electronically Authored On: 14-Mar-15 22:41

Electronically Signed By: LEE MD, MOSES S

PAGER BUS: 312 760 3791

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MRN: 005007433c; 00704888z

Birth Date:

Discharge Date: 3/15/2015

Gender: Male

CMRN: 1012697414

FIN: 0755399730

ED Note - Physician

Document Type:

ED Note-Physician

Service Date/Time:

3/15/2015 00:56 CDT

Result Status:

Auth (Verified)

Perform Information:

KIMBALL MD, DEBORAH (3/15/2015 00:57 CDT)

Sign Information:

KIMBALL MD, DEBORAH (3/15/2015 08:32 CDT)

ED - Med Addendum

Patient: ROBERTS, JAMES

MRN: 005007433c

FIN: 0755399730

Age: 66 years Sex: Male DOB:

Associated Diagnoses: None

Author: KIMBALL MD, DEBORAH

Basic Information

Addendum: Time of addendum:: 03/15/2015 00:56:00 , Assumed care from: LEE MD, MOSES S, Pertinent history: pt c/o hungry ow no c/o awaiting ct head / neck for clearance back to cermak.

Physical Examination**Vital Signs**

Vitals Last 24 hrs

Vital Signs Last 24 Hours

Vital	Last Result		Minimum Result		Maximum Result
Temperature Oral	97.3	MAR-14 20:05	97.3	MAR-14 20:05	97.3 MAR-14 20:05
Heart Rate	87	MAR-14 20:05	87	MAR-14 20:05	87 MAR-14 20:05
Respiratory Rate	17	MAR-14 20:05	17	MAR-14 20:05	17 MAR-14 20:05
Oxygen Saturation	96	MAR-14 20:05	96	MAR-14 20:05	96 MAR-14 20:05
Systolic Blood Pressure	168	MAR-14 20:05	168	MAR-14 20:05	168 MAR-14 20:05
Diastolic Blood Pressure	94	MAR-14 20:05	94	MAR-14 20:05	94 MAR-14 20:05

General: Alert, no acute distress.**Skin:** Warm, dry.**Medical Decision Making****Radiology results:** Radiologist's interpretation: : Radiology Results

3/15/2015 00:54 CT Head w/o Contrast IMPRESSION (Transcribed) , med by:KUMAR MD, GIRISH on March 15, 2015 01:21

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Patient Name: ROBERTS, JAMES

Patient Type: Emergency

Admission Date: 3/14/2015

MRN: 005007433c; 00704888z

Birth Date:

Discharge Date: 3/15/2015

Gender: ale

CMRN: 1012697414

FIN: 0755399730

ED Note - Physician

Encounter info: 0755399730, Stroger, Emergency, 3/14/2015 - 3/15/2015

*** Preliminary Report ***

Reason For Exam

5-Trauma

FINDINGS

Indication: Trauma

Technique: Noncontrast head CT

Comparison: No prior studies available

Findings: No acute intracranial hemorrhage.

A lacunar type infarct in the left basal ganglia, likely subacute to chronic.

Periventricular and deep subcortical white matter changes reflect chronic small vessel ischemia.

No cerebral edema, hydrocephalus or midline shift.

No acute fractures.

IMPRESSION

Impression: No acute intraparenchymal hemorrhage. No acute fractures.

Electronically signed by resident: GIRISH KUMAR

Date: 03/15/15

Time: 01:27

Signature Line

This is a Preliminary Report.

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Facility: Stroger

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Cook County Health and Hospitals System

1900 West Polk Street, Chicago, Illinois 60612

Patient Name: ROBERTS, JAMES

Patient Type: Emergency

Birth Date: 8/

Gender: Male

FIN: 0755399730

Admission Date: 3/14/2015

Discharge Date: 3/15/2015

MRN: 005007433c; 00704888z

CMRN: 1012697414

ED Note - Physician

Transcribed Date/Time: 03/15/2015 1:28 am

Resident: KUMAR MD, GIRISH

Radiology results: Radiologist's interpretation: : Radiology Results

3/15/2015 00:54 CT Cervical Spine w/o Contrast IMPRESSION (Transcribed) , Result date: March 15, 2015
00:54

Result status: Transcribed

Result title: CT Cervical Spine w/o Contrast

Performed by: KUMAR MD, GIRISH on March 15, 2015 01:42

Encounter info: 0755399730, Stroger, Emergency, 3/14/2015 - 3/15/2015

*** Preliminary Report ***

Reason For Exam

Trauma

FINDINGS

Indication: Trauma

Technique: Noncontrast CT of cervical spine with multiplanar reformats

Comparison: No prior studies available for comparison

Findings: Alignment is within normal limits. Vertebral body heights and intervertebral disc spaces are preserved. No acute fractures or dislocations. Paravertebral soft tissues are unremarkable. Mild multilevel degenerative disc and uncovertebral joint disease. Mild emphysematous changes in the lung apices.

IMPRESSION

Impression:

No acute fracture or dislocation.

Cook County Health and Hospitals System

1900 West Polk Street, Chicago, Illinois 60612

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Patient Type: Emergency

Admission Date: 3/14/2015

MRN: 005007433c; 00704888z

Birth Date:

Discharge Date: 3/15/2015

Gender: Male

CMRN: 1012697414

FIN: 0755399730

ED Note - Physician

Electronically signed by resident: GIRISH KUMAR

Date: 03/15/15

Time: 01:49

Signature Line

This is a Preliminary Report.

Transcribed Date/Time: 03/15/2015 1:50 am

Resident: KUMAR MD, GIRISH

Reexamination/ Reevaluation

Vital signs

Vital Signs Most Recent in Last 24 Hours

20:05 20:05 20:05 20:05 20:05

BP HR RR O2Sat Oral Temp Rectal Temp

168/94 87 17 96 97.3

Impression and Plan**Diagnosis**

closed head injury

Staffed**Staffed with EM attending, Dr.: KIMBALL MD, DEBORAH.****Plan****Condition:** Stable.**Disposition:** Medically cleared, Discharged: to cermak.**Patient was given the following educational materials:** HEAD INJURY, No Wake-Up (Adult).**Follow up with:** 3 Follow Up with your PCP Within 1 to 2 weeks,**Scheduled Appointments**

Date	Location	/ Resource	/ Type
03/19/15 01:00 pm	08 Medical RTU 3rd F / CHS Podiatry Div 08	CHS Podiatry	CHS Podiatry
CONFIRMED			

03/23/15 01:00 pm	08 Mental Health RTU / CHS Psychiatry Div 0	CHS Psychiatry
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Patient Type: Emergency

Admission Date: 3/14/2015

MRN: 005007433c; 00704888z

Birth Date:

Discharge Date: 3/15/2015

Gender: Male

CMRN: 1012697414

FIN: 0755399730

ED Note - Physician

CONFIRMED

03/31/15 08:00 am

08 Medical RTU 3rd F / CHS PCC Div 08 RTU 3 / CHS Primary Care

CONFIRMED

04/08/15 08:30 am

08 Medical RTU 3rd F / CHS Anti-Coag Div 08 / CHS Anti-Coagulation

CONFIRMED

04/13/15 09:00 am

SC ENT Clinic D / Red (UIC) Resident 2 / MC

CONFIRMED

05/13/15 09:00 am

Cermak Basement / CHS Ophthalmology / CHS Ophthalmology

CONFIRMED

Plan: BHT no LOC

CT head / cspine neg

DC back to cermak.

*Electronically Authored On: 15-Mar-15 08:32**Electronically Signed By: KIMBALL MD, DEBORAH**PAGER BUS: 312 390 1396***ED Patient Summary**

Document Type:

Patient Summary

Service Date/Time:

3/15/2015 00:57 CDT

Result Status:

Auth (Verified)

Perform Information:

KIMBALL MD, DEBORAH (3/15/2015 00:57 CDT)

Sign Information:

KIMBALL MD, DEBORAH (3/15/2015 00:57 CDT)

Patient Summary

Report Request ID: 37971536

Page 25 of 57

Facility: Stroger

Location: SHCC ED

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Cook County Health and Hospitals System

1900 West Polk Street, Chicago, Illinois 60612

Patient Name: ROBERTS, JAMES

Patient Type: Visit CHS

Admission Date: 9/10/2014

MRN: 005007433c; 00704888z

Birth Date:

Discharge Date:

Gender: Male

FIN: 20140910003

CMRN: 1012697414

Outpt PT-OT-CHS

<input checked="" type="checkbox"/>	97530 - Ther activity		97762 - Orth/prosth check-out		97014 - Estim – unattend
	97150 - Ther group		97761 - Prosthetic training		97035 - Ultrasound
	97112 - Neuromusc re-ed		97542 - W/C mgmt training		97022 - Fluidotherapy
<input checked="" type="checkbox"/>	97116 - Gait training		97532 - Cognitive training		97010 - Hot/cold pack
	97140 - Manual therapy		97750 - Perform testing		97535 - ADLs

☐ Endorse to OP PT staff therapist following existing plan (if still applicable)☐ Endorse to PTA with supervision of original physical therapist.☐ Continue same treatment plan.☐ DC OP PT☒ Gym Treatment plan as follows: Focus on Bil LE strengthening (Especially hip abductors/extensors), balance, core strengthening,**Ext/ Pager:**

#44970

Electronically Authored On: 04-Aug-15 15:56

Electronically Signed By: LASSA, PATRICE

CHS - Medicine - PTA

Document Type:

Outpt PT-OT CHS

Service Date/Time:

8/4/2015 15:57 CDT

Result Status:

Auth (Verified)

Perform Information:

LASSA,PATRICE (8/4/2015 15:57 CDT)

Sign Information:

LASSA,PATRICE (8/7/2015 11:13 CDT)

Outpatient Physical Therapy Note☐ Initial Evaluation ☒ Daily Note ☐ Progress Report ☒ Other: Discharge

Reason for Referral: Pt. is a 66 y/o with right BKA due to blood clots at Weiss memorial over a year ago. Seen in November, adjustments made to prosthesis and socks added. Now wrapping and adding 4x4's to tighten socket as dropping in too far. Wearing OWW large liner with locking pin.

Diagnosis: Right BKA**PMH:** DM, HTN, DVT, clotting problems.**Date of onset/date of surgery:** "Approximately 2014"**I.D. x 2:** ☐ Name ☐ DOB ☐ MR # ☐ Other:

S: Reports that he is still using 4qty- 5 ply socks and some 4x4 for additional padding. Upon observation; good skin; no skin breakdown/dyscoloration/edema noted; min pain with palpation at anterior knee/patella tendon. Offered pt to be trained on crutches and pt declined due to reports that he likes his wheelchair/walker.

Report Request ID: 36447402

Page 2,105 of 6,855

Facility: CHS

Location: 084A; 10; 2

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Cook County Health and Hospitals System

1900 West Polk Street, Chicago, Illinois 60612

Patient Name: ROBERTS, JAMES

Patient Type: Visit CHS

Admission Date: 9/10/2014

MRN: 005007433c; 00704888z

Birth Date: ;

Discharge Date:

Gender: Male

FIN: 20140910003

CMRN: 1012697414

Outpt PT-OT-CHS**Pain scale (0= none, 10= worst):** No pain currently.**Level of function prior to onset:** Independent with use of walker**Impact of current symptoms on function:** Requires use of right LE prosthesis (Silicone sleeve with interlocking pin).**Pt goal:** To be able to walk well without a device. To correct prosthesis.**O:** Dr. McCarthy present for session and observed stump; observed pt walk. D/w with patient that he will need a new socket. (EVAL)**Primary language:** ☒ English ☐ Spanish ☐ Polish ☐ Other:**Interpreter present if needed:** ☐ Yes ☐ No ☒ No Need**Observation:** Patient entered PT dept with walker and RLE prosthesis donned.**Cognitive:** A&O x3. Follows all commands.**ROM/Strength:** WFL BUE and BLE except as indicated

Motion	L	PROM (degrees)	AROM (degrees)	Strength (out of 5)	R	PROM (degrees)	AROM (degrees)	Strength (out of 5)	Comments
Hip flex				4+/5(EV AL)/5/5/ (current)				4/5(EVA L)/4+/5 (current)	
Hip Abd				3+/5(EV AL)/4- /5(curren t)				3/5(EVA L)/4-/5 (current)	
Hip Ext				3+/5(EV AL)/4+/5 (current)				3/5(EVA L)4-/5 (current)	
Knee Ext				4+/5(EV AL and current)				4/5(EVA L)/4+/5 (current)	
Knee Flex				4+/5(EV AL and current)				4/5(EVA L and current)	

(EVAL)

Neurological assessments: Sensation: Intact to light touch of Bil LEs.**Other:** Calcium deposit of medial aspect of right knee (3" length)

Right fibular head redness with tenderness to palpation. 6/9/15: no redness noted today.

Report Request ID: 36447402

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Facility: CHS

Location: 084A; 10; 2

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Cook County Health and Hospitals System

1900 West Polk Street, Chicago, Illinois 60612

Patient Name: ROBERTS, JAMES

Patient Type: Visit CHS

Admission Date: 9/10/2014

MRN: 005007433c; 00704888z

Birth Date: 8

Discharge Date:

Gender: Male

FIN: 20140910003

CMRN: 1012697414

Outpt PT-OT-CHS**Functional skill level/mobility testing****Bed mobility:** Independent**Transfers:** Independent**Balance:** Static: WNL without walker short distance with CGA.

Dynamic: WNL without walker short distance with CGA.

Gait: No deviations except as indicated in table

Mark if present	Deviation		Left	Right	Deviation
	Decreased cadence				Decreased stride length
x	Decreased trunk rotation			x	Decreased weight shift
x	Forward flexed posture		x	x	Decreased arm swing
	Decreased balance			x	Trendelenberg
				x	Decreased stance time
				x	Decreased push off

Gait Device Used: Walker with right LE prosthesis.**Patient/caretaker were instructed in and/or performed:**

(If no reps or comments are indicated, activity was not performed during this session.)

Specific Intervention/exercises performed	Added to HEP	* Assist /skilled intervention required	Reps	*PR	Comments
SLR with #4lb ankle weight	x	reviewed and continue	10	4	
Bridging through left LE	x	reviewed and continue	10	4	
Supine Hip add	x	reviewed and continue	10	4	
Sidelying Hip Abd	x	reviewed and continue	10	4	
Sidelying hip Ext	x	reviewed and continue	10	4	
Prone Hip Ext	x	reviewed and continue	10	4	

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Facility: CHS

Location: 084A; 10; 2

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Birth Date:

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Gender: Male

FIN: 20140910003

CMRN: 1012697414

Outpt PT-OT-CHS

Plank on knees and sidelying plank on knees	x	vc, ba	10 secs x 3	2,4	
Push ups on knees	x	vc, ba	10 secs x 3	2,4	
Sit<>stand in 30secs with UE support with R prosthesis; without prosthesis from raised table of 22 inches	x	vc, bc	10reps	2,4	goal to increase cardio and to perform 15-18 reps; req cues with set up, sequence, hand/body placement
Gait training on level ground without A.D.; R prosthesis		vc	10 mins	4	Instruction re pacing, to decreased hip/trunk compensatory movements, to equal WB, postural corrections; quality vs quantity.
Don/doff 3qty of 5 ply socks (cotton/wool material)		vc	15 mins	3	Instructed pt re skin care; check stump at least 5 times daily and to use less socks if stump swells
Standing lat step, hip abd/ ext	x	reviewed and continue			Instruction re pacing and to decrease compensatory movements
sidestepping Bil, Amb forward & reverse x2 bouts with no device in front of wall; S	x	VC	x2 bouts	4	instruction re pacing, decreased compensatory movements; + LOB twice- able to recover without A
Recumbent bike		vc	10 mins		

KEY: * Assistance/Skilled intervention required**VC**= Verbal cues**TC**= Tactile cues

fatigue

Key: * Patient Response (PR)**1** = Complaint of pain**2** = Complaint of

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Facility: CHS

Location: 084A; 10; 2

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Patient Type: Visit CHS

Birth Date: 8

Gender: Male

Admission Date: 9/10/2014

Discharge Date:

FIN: 20140910003

MRN: 005007433c; 00704888z

CMRN: 1012697414

Outpt PT-OT-CHS**PE** = Physiologic effect symptoms**3** = Decreased**AR** = Anatomical review independently**4** = Performs**BA** = Body alignment**5** = Unable to perform
6 = Other

(specify)

Education:☐ Precautions☒ PT role/plan of care/discharge recommendations☒ Anatomy with posters/models☒ Written home exercise program handouts issued and instructed to perform exercises 3 times a day; education re safe exercise technique and progression; walking program- slow pace to decrease compensatory movements; stump skin care.☒ Patient/caregiver demonstrate/verbalize understanding of principles taught today.☐ Patient &/or patient's family/caretaker does not demonstrate/verbalize understanding of principles taught today & requires further education and assistance.**Equipment issued:** HEP handout reissued with all ther ex reprinted; 3 qty of 5 ply socks**A:**

Pt. is a 66 y/o with right BKA due to blood clots at Weiss memorial over a year ago. Seen in November, adjustments made to prosthesis and socks added. Now wrapping and adding 4x4's to tighten socket as dropping in too far. Wearing OWW large liner with locking pin.

Fall risk: No**Appointments attended:** 6/8**Missed/rescheduled appointments:** 0**Primary problems/impairments/limitations:**

	Decreased tissue mobility/ range of motion			Impaired posture
X	Decreased strength			Poor body mechanics
X	Impaired balance			Impaired coordination
	Impaired sensation			Cognitive deficits/knowledge deficits
	Impaired endurance			Impaired functional mobility
	Edema		X	Pain
	Abnormal tone			Muscle guarding

Report Request ID: 36447402

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Facility: CHS

Location: 084A; 10; 2

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Patient Name: ROBERTS, JAMES

Patient Type: Visit CHS

Admission Date: 9/10/2014

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Birth Date: ;

Discharge Date:

Gender: Male

FIN: 20140910003

CMRN: 1012697414

Outpt PT-OT-CHS

Decreased core stability

Other:

Specific skilled physical therapy interventions (noted in the therapy plan section of the clinical note) are no longer required to achieve the functional goals.

Patient's Progress: 8/4/15 Pt has progressed with strength, gait pattern and activity tolerance; pt is I with HEP. Pt verbalizes and demonstrates safe exercise technique and progression. Feel at this time that pt has reached max potential of PT and rec d/c.

Once pt receives a new socket, please send a new referral for PT.

P:

Functional Long Term Goals: starting __2/5/15 (eval date) and ending in __8__ weeks.

__1__ Increase strength(specify): of right knee flex/ext: 4+/5; Hip flex/Ext/Abd: 4+/5

__ Increase AROM (specify):

__ Patient able to perform bed mobility independently.

__ Patient able to perform transfers independently.

__2__ Patient able to ambulate 150 feet independently with cane.

__ Patient able to negotiate 4 stairs independently with least assist device and with one rail.

__ Patient able to ambulate at least __block(s) with __assistive device independently with pain at __/10.

__ Patient able to understand & perform proper body mechanics to decrease pain and risk for future injury.

__3__ Patient/family able to perform home exercise program independently to maintain/further improve functional gains attained in P.T.

__ Other:

Goal status/progress: Partially met/good

__x__ DC OP PT

Ext/ Pager:

#44970

Electronically Authored On: 07-Aug-15 11:13

Electronically Signed By: LASSA, PATRICE

CHS - Medicine - PTA

Report Request ID: 36447402

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Facility: CHS

Location: 084A; 10; 2

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1900 West Polk Street, Chicago, Illinois 60612

Patient Name: ROBERTS, JAMES

Patient Type: Visit CHS

Admission Date: 9/10/2014

MRN: 005007433c; 00704888z

Birth Date: 8/ ;

Discharge Date:

Gender: Male

FIN: 20140910003

CMRN: 1012697414

Outpt PT-OT-CHS

Document Type:

Outpt PT-OT CHS

Service Date/Time:

1/27/2016 09:30 CST

Result Status:

Auth (Verified)

Perform Information:

CROTHERS,JAMIE A (1/27/2016 13:13 CST)

Sign Information:

CROTHERS,JAMIE A (1/27/2016 13:13 CST)

Outpatient Physical Therapy Note☒ **Initial Evaluation** ☐ **Daily Note** ☐ **Progress Report** ☐ **Other:****Reason for Referral:** h/o amputation, problems with prosthesis, back in WC**PMH:** DM, HTN, DVT, clotting problems.**Date of onset/date of surgery:** BKA ~2013, ill fit to prosthesis mid-December**I.D. x 2:** ☒ **Name** ☒ **DOB** ☐ **MR #** ☒ **Other:** ID card and officer**movement officer remains present and insight throughout session*

S: Patient reports "problems with this \$25,000 leg" then promptly removed device and tossed it on the floor. Patient reports "microvascular abrasions" and "slipping" while in his prosthesis. Previously wearing 3ply sock without problem per last outpatient rehab appointment however now wearing 2x3 ply socks. Patient tangential with speech and medical compliants however able to redirect with stern instructions and reference made to Rehab MD who has worked with patient in the past. Denied any acute pain at this time however rather frustations "with being persecuted because I don't have a leg." Patient confirmed previously ambulating independently but now has been using the WC.

Pain scale (0= none, 10= worst): Denied pain at this time**Level of function prior to onset:** Previously ambulating independently with straight cane and 3-ply sock**Impact of current symptoms on function:** Patient requiring use of manual WC for all ambulation needs.**Pt goal:** "get what is justly mine"**O:****Primary language:** ☒ **English** ☐ **Spanish** ☐ **Polish** ☐ **Other:****Interpreter present if needed:** ☐ **Yes** ☐ **No** ☒ **No Need**

Observation: Patient arrived to department shouting religious prayers, distruping ongoing care. Patient eventually agreed to remain silent while waiting and then made several references to multiple lawyers, educational degrees and religious calling. Patient wearing 3 jail house tops, non-skid socks as elbow pads, 1 pair of tradidional issued pains, 2 ripped white-undershirts and a bedsheet as a scraf. High-top sneakers noted with laces in placed on the R however no laces in place on the L shoe. L LE swelling noted primarilly below knee joint which appears to be a turnicate-like effect with TED hose rolling past knee joint and stopping. 1+ pitting noted at this time. Residual limb on R side intact with no areas of redness however patient pointing to "microvascular abrasions" which were note appreciated upon visual assessment by this therapist.

Cognitive: A,O,C -- perseverates on religious calling and IDOC conflicts**ROM/Strength:** WFL BUE and BLE☒ **Trunk** ☐ **Cervical mobility**

	ROM	Comments
Flexion	WFL	
Extension	WFL	

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Facility: CHS

Location: 084A; 10; 2

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Cook County Health and Hospitals System

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Patient Type: Visit CHS

Admission Date: 9/10/2014

MRN: 005007433c; 00704888z

Birth Date:

Discharge Date:

Gender: Male

FIN: 20140910003

CMRN: 1012697414

Outpt PT-OT-CHS

Right lateral flexion	WFL	
Left lateral flexion	WFL	
Right rotation	WFL	
Left rotation	WFL	

Neurological assessments: intact**Special tests:** n/a**Other:****Functional skill level/mobility testing****Bed mobility:** independent**Transfers:** independent**Balance:** Static: intact

Dynamic: intact

Gait: no deviations except as indicated in table

Mark if present	Deviation		Left	Right	Deviation
	Decreased cadence				Decreased stride length
	Decreased trunk rotation				Decreased weight shift
	Forward flexed posture				Decreased arm swing
	Decreased balance				Trendelenberg
X	dropping into socket with 6 ply sock				Decreased stance time
					Decreased push off

Gait Device Used: RW for short distances as testing additional sock ply**Stairs:** NT**Patient/caretaker were instructed in and/or performed:**

(If no reps or comments are indicated, activity was not performed during this session.)

Specific Intervention/exercises performed	Added to HEP	* Assist /skilled intervention required	Reps	*PR	Comments
Gait Training			20 min	4	8 ply sock worked to assist with minimizing dropping or slipping; 3 pl and 5 ply
Bridges --> SL					all exercises listed were provided on HEP handouts (x5 copies per request) with patient confirming

Report Request ID: 36447402

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Facility: CHS

Location: 084A; 10; 2

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Patient Type: Visit CHS

Birth Date: ;

Gender: Male

Admission Date: 9/10/2014

Discharge Date:

FIN: 20140910003

MRN: 005007433c; 00704888z

CMRN: 1012697414

Outpt PT-OT-CHS

					independence and declining additional instructions at this time
3-way hope					
prone hip extension with knee flexed					
hooklyne rotation/ AKTC / DKTC					
sit -> stand without UE support					
unsupported squat --> SL with hand support					
modified push-ups					
modified plank					
standing lunges					
wall slides					
HS stretching					
upright bike			10 min	4	

KEY: * Assistance/Skilled intervention required**VC**= Verbal cues**TC**= Tactile cues**PE** = Physiologic effect**AR** = Anatomical review**BA** = Body alignment**Key: * Patient Response (PR)****1** = Complaint of pain**2** = Complaint of fatigue**3** = Decreased symptoms**4** = Performs independently**5** = Unable to perform**6** = Other (specify)

Report Request ID: 36447402

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Facility: CHS

Location: 084A; 10; 2

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Patient Type: Visit CHS

Admission Date: 9/10/2014

MRN: 005007433c; 00704888z

Birth Date:

Discharge Date:

Gender: Male

FIN: 20140910003

CMRN: 1012697414

Outpt PT-OT-CHS**Total direct contact time:** _60_minutes**Education:**☐ Precautions☒ PT role/plan of care/discharge recommendations☐ Anatomy with posters/models☒ Written home exercise program handouts issued and instructed to perform exercises _3_times a day.☒ Patient/caregiver demonstrate/verbalize understanding of principles taught today.☐ Patient &/or patient's family/caretaker does not demonstrate/verbalize understanding of principles taught today & requires further education and assistance.**Equipment issued:** 5 ply sock for residual limb, 5 copies of HEP exercises**A:****Pt is a:** 67 y/o male referred to PT with prosthesis fitting issues limiting ambulatory status**Fall risk:** No with properly fit prosthesis**Appointments attended:** 1/3 **Missed/rescheduled appointments:****Primary problems/impairments/limitations:**

Decreased tissue mobility/ range of motion		Impaired posture
Decreased strength		Poor body mechanics
Impaired balance		Impaired coordination
Impaired sensation		Cognitive deficits/knowledge deficits
Impaired endurance		Impaired functional mobility
Edema		Pain
Abnormal tone		Muscle guarding
Decreased core stability	x	Other: prosthesis fitting needs

Specific skilled physical therapy interventions (noted in the therapy plan section of the clinical note) are required to achieve the functional goals.

Patient's Progress: Patients current ambulatory decline is related to the fit and additional sock ply required for R residual limb. Able to achieve good fit with 8 ply (5 + 3) with patient having a second 3 ply in his possession to assist on fuller days.

Appointment made for follow-up with PMR clinic d/t patient requesting additional blowing out of knee socket d/t discomfort and skin break down. At this time no open or red areas noted however would recommend formal assessment to ensure congruency. Home exercise handouts provided mirroring previously prescribed HEP which patient was appreciative. Patient also requested to attempt to improve ambulatory status with walk when not used prosthesis d/t urination needs a night

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Facility: CHS

Location: 084A; 10; 2

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MRN: 005007433c; 00704888z

Birth Date:

Discharge Date:

Gender: Male

FIN: 20140910003

CMRN: 1012697414

Outpt PT-OT-CHS

therefor will schedule 2 follow-up appointment to assist with additional gait training however stressed importance to use prosthesis at all times with standing activities d/t larger body habitus and height compromising his ability to manage his center of gravity with single leg ambulation.

P:

Functional Long Term Goals: to be met in 3 treatments starting 01/27/16 (eval date) and ending in 20 weeks.x Patient able to ambulate 2x100 feet independently with walker and no prosthesis on R LE, hoppingx Patient able to negotiate 4 stairs independently with least assist device and with one rail.x Patient able to understand & perform proper body mechanics to decrease pain and risk for future injury.x Patient/family able to perform home exercise program independently to maintain/further improve functional gains attained in P.T. Other:**Goal status/progress:** initial evaluation**Intervention plan:** gait training (hopping) without prosthesis) to address evening ambulation needs for toileting

Continue therapy to address problems and work toward goals set. Planned interventions at time of evaluation are marked

	Treatment intervention		Treatment intervention		Treatment intervention
	97110 - Ther exercise		97760 - Orthotic mgmt/fit/train		97032 - Estim – attended
	97530 - Ther activity		97762 - Orth/prosth check-out		97014 - Estim – unattend
	97150 - Ther group	x	97761 - Prosthetic training		97035 - Ultrasound
	97112 - Neuromusc re-ed		97542 - W/C mgmt training		97022 - Fluidotherapy
x	97116 - Gait training		97532 - Cognitive training		97010 - Hot/cold pack
	97140 - Manual therapy		97750 - Perform testing		97535 - ADLs

x Endorse to OP PT staff therapist following existing plan (if still applicable)x Endorse to PTA with supervision of original physical therapist. Continue same treatment plan. DC OP PT Modify Treatment plan as follows:**Ext/ Pager:** 4970

Electronically Authored On: 27-Jan-16 13:13

Electronically Signed By: CROTHERS, JAMIE A

CHS - PT/OT - Manager

Report Request ID: 36447402

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Facility: CHS

Location: 084A; 10; 2

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**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

JOHNATHAN LACY, KENNETH FARRIS,)
MARQUIS BOWERS and MAURICE BOSTON,)
individually and for all others similarly situated,)

Plaintiffs,)

-vs-)

THOMAS DART, Sheriff of Cook County,)
COOK COUNTY, ILLINOIS, SGT. JOHNSON,)
CORRECTIONAL OFFICER NAWARA,)
CORRECTIONAL OFFICER LOPEZ, and)
CORRECTIONAL OFFICER WILSON,)

Defendants.)

No. 14-cv-6259

(Judge Gettleman)

(Magistrate Judge Martin)

**AFFIDAVIT OF MICHAEL GUMM REGARDING ADA
CONSTRUCTION AT THE COOK COUNTY COURTHOUSES**

I, Michael Gumm, ADA Compliance Director for the County of Cook, under penalty as provided by law pursuant to Section 1-109 of the Illinois Code of Civil Procedure, state that if called to testify, I would state the following:

1. As set forth on the attached chart, the contracts for the ADA improvements in the suburban courthouses have all been signed. Four of the five contracts have the actual Purchase Order number which means the supply and material has been ordered and as soon as they are received the installations and ADA modifications will be made.
2. We are looking into the improvements for the ramps on the suburban locations that are indicated on the attached chart but no conclusions have been made to date.
3. The ADA sink has been received by Facilities Management. Today during my visit to the DOC Campus I spoke with the Supervisor from Facilities Management and the

Case: 1:14-cv-06259 Document #: 125-1 Filed: 03/25/15 Page 3 of 4 PageID #:3612

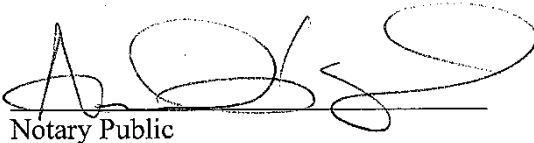
sink will be installed tomorrow in Bullpen 34/5. The installation will complete the ADA improvements in this area.

4. A Request for Proposal to procure Architecture/Engineering services for the design of Leighton Criminal Courts Building Holding Cells ADA Renovation were sent to six design firms, with proposals due March 25, 2015. As of today, March 25, 2015 all but one proposer has declined to submit causing Cook County to reissue the RFP to another prequalified pool of A/E design firms, extending the procurement process 3-4 weeks. If the single proposer's submission was accepted, Capital Planning would be required to procure an independent firm to study the current market rate of the proposed services from which the County could compare costs to determine if the offering was fair and reasonable, further delaying the project by 3-4 months. Re-issuing the RFP is the shortest route to procuring the required services for the improvements at Leighton Criminal Courts Building. The County Board has already approved the funding for the project.

FURTHER AFFIANT SAYETH NOT


Michael Gumm

Subscribed and sworn to before me
this 25th day of March, 2015


Notary Public



Case: 1:07-cv-03889 Document #: 322 Filed: 09/17/10 Page 1 of 1 PageID #:3627

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Derrick Phipps, et al.,)	
<i>Plaintiffs</i>)	
)	
-vs-	)	No. 07 CV 3889
)	
Sheriff of Cook County and Cook	)	(Judge Bucklo)
County,)	
)	
<i>Defendants.</i>)	

ORDER

The Court has reviewed the proposed settlement of this class action and, having held a hearing on the fairness of the settlement, finds that notice of the proposed settlement has been provided to all class members by first class mail to his (or her) last known address and that the proposed settlement is fair, reasonable, and adequate. Accordingly,

IT IS ORDERED that the proposed settlement be, and the same hereby is, approved.

IT IS FURTHER ORDERED:

The time for class members to submit claims is extended to November 15, 2010.

Defendant Cook County shall, within 30 days, pay incentive awards in the amount of \$25,000 to James Grant, Kenneth Courtney, and Derrick Phipps, \$15,000 to Kevin House, and \$10,000 to David Eldefonso.

Defendant Cook County shall pay to attorneys Kenneth N. Flaxman and Thomas G. Morrissey the sum of \$35,000 as reimbursement for expenses and \$700,000 as compensation for attorneys fees, the fees to be paid in two installments as set out in the settlement agreement.

The Court reserves jurisdiction to September 1, 2011 to enforce the terms of the settlement agreement.

ENTER

Chair & Buckle

9/17/2010

Elaine E. Bucklo

United States District Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

James Roberts,)
)
Plaintiff,)
) No. 16-cv-5560
-vs-)
) Judge Lee
Thomas Dart, Sheriff of Cook County,)
and Cook County, Illinois,)
)
)
Defendants.)

**PLAINTIFF'S RESPONSE TO DEFENDANT COOK
COUNTY'S FIRST SET OF INTERROGATORIES**

Plaintiff James Roberts, by counsel, responds to defendant Cook County's first set of interrogatories:

1. State your full name, present residence address, date and place of birth, your social security number, your driver's license number and, if you have ever been known by any other name, please state all of the names by which you have been known, the dates of use of each such name and the reasons for any change of name.

ANSWER: James Samuel Roberts, Born 8/18/48 in New York City, social security number is 109-40-1368 and I am currently incarcerated at Cook County Jail located at 2600 S. California Ave. Chicago, IL 60608.

2. If you have ever pleaded guilty to or been convicted of a crime punishable as either a misdemeanor or felony, the date of each prosecution or conviction, the nature of each court and judge, and the location of each Court where the prosecution or conviction took place, and a full description of any and all sentences imposed.

ANSWER: I have been convicted of crimes including but not limited to approximately 4.5 months in Queenshouse for assault approximately 30 years ago.

Counsel for plaintiff directs defendant to review plaintiff's Certified Copy of

Convictions maintained by the Clerk of the Circuit Court of Cook County pursuant to Rule 33(d) of the Federal Rule of Civil Procedure.

3. Identify any person, including parties to this case, who has, or claims to have knowledge of the facts concerning the occurrences complained of, or who were, or claim to have been witnesses to the occurrences complained of (if incarcerated please include inmate number and name of institution).

ANSWER: Counsel for plaintiff objects to the overly broad and unduly burdensome nature of this interrogatory. Notwithstanding this objection plaintiff responds as follows: I believe the following correctional officers assigned to 3E of the RTU may have knowledge of some facts being complained of: Officer Corrona, Officer Clark, Officer Adams, Sergeant Bogenhagen, Sergeant Moore, Officer Salamon, and Officer Randall. In addition, I believe Sabrina Rivero-Canchola, Dr. Paul, Glen Trammel, and the nursing staff may also have information. Finally, I believe the following individuals who have been incarcerated at the Cook County Jail may also have information about the facts complained of: Harold Vaughn, Nicholas Potter, Keith Martin, and Joseph Felton. Counsel for plaintiff also directs defendant to the individuals disclosed pursuant to Rule 26(a)(1). Investigation continues.

4. State whether you or your attorneys or agents or anyone acting on your behalf have taken statements, signed or unsigned, oral or written, or have in their possession any such statements, or know of the existence of any such statements, from or by any person who has, or claims to have, knowledge of the facts concerning the incidents complained of; if so, state the identity and present or last known address of each such person together with the present whereabouts and number of such statements.

ANSWER: Counsel for plaintiff objects to the overly broad and unduly burdensome nature of this interrogatory. Notwithstanding this objection plaintiff responds as follows: I filed many grievances and health service request forms. Additionally,

counsel for plaintiff directs defendant to documents produced in discovery in this case. Investigation continues.

5. Describe the evidence in your possession, (including documents, witnesses and communications), which supports the claims or allegation in your complaint. Please include any oral or written statements or communications made to the Defendants or their agents. Please also include the street, street number, city and state of every witness known to you or to your attorneys who has any knowledge regarding the facts and circumstances surrounding the happening of the incident(s), including but not limited to eyewitnesses to such event(s), as well as medical witnesses and other persons having knowledge thereof. Please also state whether any witnesses you propose to use at trial are related to the plaintiff and the nature of the relationship. If any of the above-described individuals have information or documents or have made statements pertaining to the occurrences involved in this litigation, please attach a copy to these answers to interrogatories.

ANSWER: Counsel for plaintiff objects to the overly broad and unduly burdensome nature of this interrogatory. Notwithstanding this objection plaintiff responds as follows: I filed many grievances, health service request forms, and I believe there is video maintained by the Sheriff of my living unit. In addition, counsel for plaintiff directs defendant to review documents disclosed pursuant to Rule 26(a)(1), including the summary judgment material in *Clemons v. Dart*, 13 C 2356, *Crockwell v. Dart*, 15 C 825, *Lacy v. Dart*, 14-C 6259 and *Flora v. Dart*, 15 C 1127. Investigation continues.

6. Please identify any declarations against interest you contend have been made by or with respect to Defendant, Cook County, Illinois.

ANSWER: Counsel for plaintiff objects to the overly broad and unduly burdensome nature of this interrogatory. In addition, this interrogatory asks plaintiff Roberts to formulate a legal conclusion. Notwithstanding this objection plaintiff responds as follows: I complained to defendants about the various non-ADA

compliant living units at the Jail, the courthouse, and my substantial hearing impairment and need for an accommodation.

7. Describe the condition of your prosthetic leg, when you started having problems with it, who you told and when you told them.

ANSWER: Counsel for plaintiff objects to the vague and overly broad interrogatory that is not limited to time. Notwithstanding this objection plaintiff responds as follows: About one or two months after my incarceration at the jail my leg began to swell, develop microscopic lesions, and calcium deposits near my knee which hit my nerves. This made it very difficult for me to put on the prosthetic and move from place to place due to significant pain. I complained in writing and told Drs. Paul and McCarthy about my problems. About 10 months ago I was fitted with a new prosthetic which did not fit after some time. I was given back my original prosthetic leg on October 4, 2016 by Sabrina Rivero-Canchola. Pursuant to Rule 33(d), counsel for plaintiff directs defendants to review plaintiff's medical records.

8. Describe the condition of your hearing, when you started having problems with it, who you told and when you told them.

ANSWER: Counsel for plaintiff objects to the overly broad nature of this interrogatory. Subject to and notwithstanding this objection plaintiff responds as follows: about 9 months to 1 year after intake at the jail my hearing started causing me substantial problems. This condition caused me to be unable to distinguish sounds, made me feel nervous, anxious, fearful, unable to engage in normal conversations in the dayroom, and substantially interfered with my ability to hear and understand the television in the dayroom. I wrote health service request forms and grievances and spoke with Dr. Paul and Glen Trammel. Counsel for plaintiff directs

defendant to review plaintiff's medical records pursuant to Rule 33(d) of the Federal Rule of Civil Procedure. Investigation continues.

9. Have you ever been injured by not being placed in an ADA compliant room? If so, please describe the injury in detail, please also provide the date who you told and if you received a diagnosis from it.

ANSWER: Counsel for plaintiff objects to the overly broad interrogatory. Subject to and notwithstanding this objection plaintiff responds as follows: during most of my incarceration I was not assigned to an ADA compliant cell that had grab bars near the toilet. I fell approximately 9 times from attempting to use the toilet. At times members of the correctional staff helped me off the follow. I recall Officer Clark and Officer Sandoval helped me. I broke my two front teeth after one fall and went immediately to the dentist. Counsel for plaintiff directs defendant to review plaintiff's medical records and review the architectural layout of each of plaintiff's cells pursuant to Rule 33(d).

10. State by date the locations within the Cook County Department of Corrections, Plaintiff was assigned to. Please include a description of the living units Plaintiff was assigned to and the accommodations made for his alleged impairment.

ANSWER: Pursuant to Rule 33(d), counsel for plaintiff directs defendants to review plaintiff's bed assignments and architectural drawings for each bed assignment. Subject to and notwithstanding this objection plaintiff responds as follows: To the best of my recollection I have been assigned to the following tiers in the RTU: 3E, 3A, 3E, 4A, and 4E.

11. Have you suffered any personal injury (physical or psychological) prior to entering the Cook County Department of Corrections? If so, state when, where, and how you were injured and describe the injuries suffered.

ANSWER: Counsel for plaintiff objects to this overly broad and impermissibly vague interrogatory. Moreover, plaintiff is currently a pretrial detainee at the Cook County Jail and answering this question in full is protected by the Fifth Amendment. Subject to and notwithstanding this objection, plaintiff responds by providing the following personal injuries he suffered at the time of entering the Cook County Jail in September of 2014. At the date of intake at the jail I suffered from the following conditions: depression, diabetes, dementia, hypertension, DVT from head trauma, and major circulation conditions.

12. If the answer to the preceding question is yes, please state the name and address of each doctor, surgeon, technician, physician, psychiatrist, psychologist or counselor who and each hospital, laboratory, or clinic that examined, tested or treated you for any condition and the reason, condition, or complaint for which this was necessary.

ANSWER: Counsel for plaintiff objects to the overly broad and unduly burdensome nature of this interrogatory. Pursuant to Rule 33(d) of the Federal Rule of Civil Procedure, counsel directs defendant to review plaintiff's medical records maintained by Stroger Hospital and Cermak. Notwithstanding this objection, plaintiff responds as follows: I have been treated at Weiss Hospital at 4646 N. Marine Dr, Chicago, IL 60640 and Norwegian Hospital at 1044 N. Francisco Ave., Chicago, IL 60622. Investigation continues.

13. Have you ever filed any suit or claim for personal injuries or a violation of your constitutional rights, other than the present lawsuit? If so as to each claim or lawsuit set forth (a) the date and place of the occurrence; (b) the parties or the person or person(s) against whom the claim was made; (c) the full name of the lawsuit including court room number, court and year of filing.

ANSWER: A pro se complaint was received by the clerk of the court on October 28, 2016 and assigned to Judge Coleman. It was assigned case number 16 C 10191. Counsel for plaintiff directs defendant to the complaint filed as ECF No. 1.

14. List and itemize all sources of income being received by the plaintiff on the date of the alleged acts or omissions by the defendants, including, but not limited to employment compensation, social security payments, pension from former employers, and financial support furnished by any person.

ANSWER: I was incarcerated at the Cook County Jail on the dates of the alleged acts and therefore did not have a job. On occasion, my brother, Jerome gives me money for commissary.

15. State any and all expenses or losses claimed as a result of the alleged acts or omissions by the defendants.

ANSWER: Plaintiff objects to this interrogatory to the extent it is overly broad, impermissibly vague, and plaintiff is not, at this time, able to precisely calculate all expenses or losses as a result of the alleged act by defendants. Subject to and without waiving these objections, plaintiff states as follows: As described above, I have fallen numerous times because I was not assigned to an ADA compliant cell. I also suffered significant pain and limited mobility because my prosthetic leg did not fit well and defendant did not provide me a wheelchair at all time to move around on my tier. In addition I suffered physical and emotional injuries because I was not accommodated for my substantial hearing impairment which caused physical symptoms including blurry vision and dizziness. Also, when I attended court there have been occasions when I was required to roll up and down the ramp to the courthouse. This was very difficult for me in my wheelchair. As described above, this has caused me to suffer mental distress.

16. With respect to the allegations of injury or damage, please itemize each element of damage and the dollar amount assigned to each element of damage, state the manner in which you determined or computed damages, and if you have not yet determined specific dollar amounts of your damages, state the method, formula or theory by which you will compute your alleged damages.

ANSWER: Plaintiff objects to this interrogatory to the extent it is overly broad, impermissibly vague, and plaintiff is not, at this time, able to precisely calculate all expenses or losses as a result of the alleged act by defendants. Subject to and without waiving these objections, plaintiff states as follows: I plan to allow a jury to decide an appropriate level of compensatory damages.

17. State the names and addresses of all physicians, surgeons, technicians, medically trained persons, or experts in any scientific field who have been contacted for expert opinion (excluding purely consulting experts) by you, your attorney or anyone acting on your behalf, regarding any aspect of the alleged acts or omissions by defendant, causation, injuries, or damages. As to each person, state the following:

- a) Name and address;
- b) Area of expertise;
- c) Identify, with particularity, any and all records, statements reports, films, letters, tape recordings, photographs, memoranda, or documentation of any type provided to or furnished by each expert.

ANSWER: Objection, premature. Plaintiff has not retained an expert to formulate an expert opinion in this case pursuant to Rule 26(a)(2). Plaintiff reserved the right to retain an expert and will seasonably supplement this disclosure pursuant to the Federal Rules.

18. State and describe, in detail any and all requests, grievances, appeals, administrative proceeding(s), law suits or procedures that Plaintiff has pursued and/or filed either prior to filing this subject Complaint or at any time whatsoever that in anyway pertains, relates or deals with this cause of action and the results thereof.

ANSWER: Counsel for plaintiff objects to the overly broad and unduly burdensome nature of this interrogatory. Pursuant to Rule 33(d) of the Federal Rule of Civil Procedure, counsel directs defendant to review plaintiff's health service request forms maintained by Cermak and grievances kept by Cook County Sheriff.

20. State when you were prescribed a prosthetic leg and provide the name and address of the prescribing doctor.

ANSWER: My right leg was amputated at Weiss Hospital approximately 3 years ago, I was also treated at Continental Nursing Home. I do not recall the name of the medical provider who prescribed a prosthetic leg.

21. Describe with specificity whether you need a wheelchair to ambulate when wearing your prosthetic leg.

ANSWER: Counsel for plaintiff objects to the overly broad and unduly burdensome interrogatory. Subject to and notwithstanding this objection, plaintiff responds as follows: If the skin on my leg is healthy and not swollen, and my prosthetic leg fits, I generally do not require a wheelchair or scooter to move around. However, when my prosthetic leg hits my nerve and/or does not fit well, shooting pain develops and I need a wheelchair to move around.

22. State how often you utilize your prosthetic leg on a daily basis.

ANSWER: Counsel for plaintiff objects to the overly broad and unduly burdensome interrogatory. Additionally, counsel for plaintiff incorporates plaintiff's response to the above interrogatory by reference. Subject to and notwithstanding this objection plaintiff responds as follows: the use of my prosthetic leg varies depending on the condition of my right leg and the fit of the prosthetic leg. My use of the leg varies day to day. There has been about an approximate three month period at the jail when I did not use the prosthetic leg at all.

23. State whether you are able to ambulate without the need of a wheelchair when utilizing your prosthetic leg. Provide any detail of difficulty in ambulating.

ANSWER: Counsel for plaintiff objects to the overly broad and unduly burdensome interrogatory. Additionally, counsel for plaintiff incorporates plaintiff's response to the above interrogatories by reference. Subject to and notwithstanding

this objection plaintiff responds as follows: it depends on the condition of my leg and the prosthetic leg. Sometimes I am able to move short distances without a wheelchair and other times I am not.

24. State whether you entered CCDOC with a wheelchair. If the answer is in the affirmative, state how long you had been utilizing a wheelchair prior to your most recent arrest.

ANSWER: I did not enter CCDOC with a wheelchair.



An attorney for plaintiff

Thomas G. Morrissey, Ltd.
ARDC 6309730
10150 S. Western Ave., Suite Rear
Chicago IL 60643
(773)233-7900

Verification

I, James Roberts, state under penalty of perjury, the foregoing response to Defendant Cook County's First Set of Interrogatories are, to the best of my knowledge true and correct.

Date 11, 7, 16

James Roberts
James Roberts

CERTIFICATE OF SERVICE

I, Patrick W. Morrissey, state that I served the foregoing on the undersigned attorney for defendants by Email on November 8, 2016.

Andrea Huff
Assistant State's Attorney
500 Richard J. Daley Center
Chicago, IL 60602

Jacqueline Carroll, ASA
69 W. Washington, Suite 2030
Chicago, IL 60602



Patrick W. Morrissey
Thomas G. Morrissey, Ltd.
10150 S. Western Ave., Suite Rear
Chicago, IL 60643
(773)-233-7900

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Donnell Flora,)	
)	
<i>Plaintiff,</i>)	
	)	15-cv-1127
-vs-)	
	)	Judge Kennelly
Thomas Dart, Sheriff of Cook)	
County, and Cook County,)	
Illinois,)	
)	
<i>Defendants.</i>)	

PLAINTIFF'S INDEX OF EXHIBITS

Exhibit No.	Description
1	Dart's Response to Plaintiff's First Request to Admit
2	Agreed Order in <i>United States v. Cook County</i> , 10-cv-2946
3	Cook County's Response to Plaintiff's First Request to Admit
4	Uniform Federal Accessibility Standards
5	1991 ADA Standards for Accessible Design
6	United States Department of Justice, Civil Rights Division, ADA/Section 504 Design Guide: Accessible Cells in Correctional Facilities
7	Nondiscrimination Based on Handicap in Federally Assisted Programs – Implementation of Section 504 of the Rehabilitation Act of 1973 and Executive Order 11914, 45 Fed. Reg. 37620-36 (June 3, 1980)
8	Department of Justice, Enforcing the ADA: A Status Report from the Department of Justice
9	Michael Gumm Deposition in <i>Wade v. Dart</i> , 15-cv-10644
10	Defendant Cook County's Rule 26(a)(2)(C) Disclosure
11	Sabrina Rivero-Canchola as Sheriff's Rule 30(b)(6) designee
12	Matthew Burke as Sheriff's Rule 30(b)(6) designee dated September 23, 2016
13	Monitor Ronald Shansky's Report No. 7 in <i>United States v. Cook County</i> , 10-cv-2946
14	Dr. Andrew Ting's Deposition in <i>Clemons v. Dart</i> , 13-cv-2356
15	Daniel Moreci as Sheriff's Rule 30(b)(6) designee in <i>Brown v.</i>

	<i>Dart</i> , 14-cv-7945
16	Daniel Moreci Affidavit
17	Donnell Flora Deposition
18	Accessibility Analysis of Cermak Health Services by MRA Architects, Ltd.
19	“ADA Equipt Rooms in Cermak”
20	Dart’s Stipulation of Facts Regarding Certain Records
21	Daily Dorm Count Sheets for Cermak during Plaintiff’s Incarceration
22	Historical Bed Assignment Associated View for plaintiff Flora
23	Dr. Connie Mennella e-mail dated August 20, 2014
24	Affidavit of Michael Gumm Regarding ADA Construction at the Cook County Courthouses
25	Plaintiff’s ADA Grievances Concerning Courthouse Accessibility
26	Order in <i>Phipps v. Sheriff</i> , 07-cv-3889
27	Order in <i>Clemons v. Dart</i> , 13-cv-2356
28	May 10, 2012 Justice Department Letter, to be filed under seal
29	Excerpt of Matthew Burke Deposition dated June 30, 2016, to be filed under seal

Court Minutes Associated View

Status	Inmate	Case	Court Date	Court	Court Room	Clothes
Active	James Roberts	14CR6005801	7/22/2016 9:30 AM	Criminal Courts Building	702	Jail
Inactive	James Roberts	14CR6005801	6/15/2016 9:30 AM	Criminal Courts Building	702	Jail
Inactive	James Roberts	14CR6005801	6/6/2016 9:30 AM	Criminal Courts Building	702	Jail
Inactive	James Roberts	14CR6005801	5/12/2016 9:30 AM	Criminal Courts Building	702	Jail
Inactive	James Roberts	14CR6005801	4/25/2016 9:30 AM	Criminal Courts Building	702	Jail
Inactive	James Roberts	14CR6005801	3/28/2016 9:30 AM	Criminal Courts Building	702	Jail
Inactive	James Roberts	14CR6005801	2/22/2016 9:30 AM	Criminal Courts Building	702	Jail
Inactive	James Roberts	14CR6005801	1/22/2016 9:30 PM	Criminal Courts Building	702	Jail
Inactive	James Roberts	14CR6005801	12/4/2015 9:30 AM	Criminal Courts Building	702	Jail
Inactive	James Roberts	14CR6005801	11/6/2015 9:30 AM	Criminal Courts Building	702	Jail
Inactive	James Roberts	14CR6005801	10/2/2015 9:30 AM	Criminal Courts Building	702	Jail
Inactive	James Roberts	14CR6005801	8/20/2015 9:30 AM	Criminal Courts Building	702	Jail
Inactive	James Roberts	14CR6005801	7/21/2015 9:30 AM	Criminal Courts Building	702	Jail
Inactive	James Roberts	14CR6005801	7/7/2015 9:30 AM	Criminal Courts Building	702	Jail
Inactive	James Roberts	14CR6005801	6/25/2015 9:30 AM	Criminal Courts Building	702	Jail
Inactive	James Roberts	14CR6005801	5/28/2015 9:30 AM	Criminal Courts Building	702	Jail
Inactive	James Roberts	14CR6005801	4/24/2015 9:30 AM	Criminal Courts Building	702	Jail
Inactive	James Roberts	14CR6005801	3/20/2015 9:00 AM	Criminal Courts Building	702	Jail
Inactive	James Roberts	14CR6005801	3/19/2015 9:30 AM	Criminal Courts Building	702	Jail
Inactive	James Roberts	14CR6005801	2/23/2015 9:30 AM	Criminal Courts Building	702	Jail
Inactive	James Roberts	14CR6005801	2/13/2015 9:00 AM	Criminal Courts Building	702	Jail
Inactive	James Roberts	14CR6005801	2/4/2015 9:00 AM	Criminal Courts Building	702	Jail
Inactive	James Roberts	14CR6005801	1/26/2015 9:00 AM	Criminal Courts Building	702	Jail
Inactive	James Roberts	14CR6005801	1/13/2015 9:00 AM	Criminal Courts Building	702	Jail
Inactive	James Roberts	14CR6005801	12/22/2014 9:30 AM	Criminal Courts Building	702	Jail
Inactive	James Roberts	14CR6005801	11/21/2014 9:00 AM	Criminal Courts Building	702	Jail
Inactive	James Roberts	14CR6005801	11/13/2014 9:30 AM	Criminal Courts Building	702	Jail
Inactive	James Roberts	14CR6005801	10/9/2014 9:00 AM	Criminal Courts Building	101	Jail
Inactive	James Roberts	14CR6005801	10/3/2014 9:00 AM	Branch 64	302	Jail
Inactive	James Roberts	14CR6005801	9/15/2014 9:00 AM	Branch 64	302	Jail